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Monday
June 28, 1993

Briefings on How To Use the Federal Register
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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

(two briefings)

WHEN: July 15 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Separate Parts in This Issue

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Memorandum of June 23, 1993

Delegation of Reporting Function

Memorandum for the Secretary of Energy

By virtue of the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to you the authority to transmit to the Congress the annual report describing the activities of the Federal Government as required by subtitle H, title V of the Energy Security Act (Public Law 96–294; 42 U.S.C. 8286, *et seq.*).

You are authorized and directed to publish this memorandum in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, June 23, 1993.

[FR Doc. 93–15309
Filed 6–24–93; 3:00 pm]
Billing code 6450–01–P

Rules and Regulations

Federal Register
Vol. 58, No. 122
Monday, June 28, 1993

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–ANE–32; Amendment 39–8600; AD 93–11–03]

Airworthiness Directives; Teledyne Continental Motors Models O–200A, O–300A, O–300C, and O–300D Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 93–11–03 that was sent previously to all known U.S. owners and operators of Teledyne Continental Motors (TCM) Models O–200A, O–300A, O–300C, and O–300D reciprocating engines by individual letters. This AD requires inspection to determine if an incorrect connecting rod is installed, and replacement, if necessary, with serviceable parts. This amendment is prompted by 5 reports of TCM O–200 and O–300 series reciprocating engines shipped from the factory with an IO–360 series connecting rod installed. The actions specified by this AD are intended to prevent failure of the connecting rod which can result in engine failure.

DATES: Effective July 13, 1993, to all persons except those persons to whom it was made immediately effective by priority letter AD 93–11–03, issued on June 1, 1993, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before August 27, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–32, 12 New England Executive Park, Burlington, MA 01803–5299.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, 1669 Phoenix Parkway, suite 210C, Atlanta, GA 30349; telephone (404) 991–3810; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION: On June 1, 1993, the Federal Aviation Administration (FAA) issued priority letter AD 93–11–03, applicable to Teledyne Continental Motors (TCM) Models O–200A, O–300A, O–300C, and O–300D reciprocating engines, which requires inspection to determine if an incorrect connecting rod is installed, and replacement, if necessary, with serviceable parts. That action was prompted by 5 reports of TCM O–200 and O–300 series reciprocating engines shipped from the factory with an IO–360 series connecting rod installed. The IO–360 series connecting rod is the same length as the O–200 and O–300 series connecting rods but the piston pin bushing is a slightly larger diameter: 1.000 inches vs. 0.923 inches, creating an improper fit. There are 93 TCM models O–200A, O–300A, O–300C, and O–300D engines that are suspected to contain incorrect connecting rods. The FAA has determined that engine failure from an incorrect connecting rod will likely occur within 100 hours time in service (TIS) from installation of the incorrect connecting rod. Therefore, this AD does not require inspection of engines with more than 100 hours TIS from new, rebuild, or overhaul, on the effective date of the AD. This condition, if not corrected, can result in failure of the connecting rod which can result in engine failure.

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, the FAA issued priority letter AD 93–11–03 to prevent failure of the connecting rod which can result in engine failure. The AD requires inspection to determine if an incorrect connecting rod is installed, and replacement, if necessary, with serviceable parts.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on June 1, 1993, to all known U.S. owners and operators of TCM Models O–200A, O–300A, O–300C, and O–300D reciprocating engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **"ADDRESSES."** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–ANE–32." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-11-03 Teledyne Continental Motors: Amendment 39-8600. Docket 93-ANE-32.

Applicability: Teledyne Continental Motors (TCM) Models O-200A, O-300A, O-300C, and O-300D reciprocating engines with the following serial numbers:

New O-200A: 256005 through 256009, 256011 and 256012;
Rebuilt O-200A: 281313-R, 281316-R, 281319-R through 281323-R, 281325-R through 281327-R, 281329-R, 281331-R, 281335-R, 281338-R, 281340-R, 281342-R, 281344-R, 281345-R, 281347-R, 281350-R, 281354-R, 281356-R, 281358-R, 281359-R, 281364-R, 281367-R, 281372-R through 281375-R, 281385-R, 281389-R, 281394-R, 281398-R, 281405-R, 281407-R, 281409-R, 281410-R, 281416-R, 281419-R through 281423-R, 281427-R, 281428-R, 281433-R, 281435-R, 281436-R, 281438-R, 281440-R, 281444-R through 281446-R, 281457-R, 281459-R through 281461-R, 281463-R, 281464-R, 281472-R, 281476-R, 281479-R, 281494-R, 285002-R, and 285005-R;
Factory Overhauled O-200A: 242663-H, 252848-H, 254252-H, 255170-H, 255210-H, and 255984-H;
Rebuilt O-300A: 16107D-R and 16108D-R;
Rebuilt O-300C: 230815-R;
Rebuilt O-300D: 25356-R, 25363-R, 25622D-R, 29660-R, 29723-R, 35774-R, 35977-R, and 35978-R;
Factory Overhauled O-300D: 27903-H, 29712-H, and 29899-H. These engines are installed on but not limited to: Aeronca Models 15AC and S15AC; American Champion (Bellanca) Models 7ECA and 402; Cessna 150, 170, and 172 series; Maule Models Bee Dee M-4, M-4, M-4C, M-4S, and M-4T; and Taylorcraft Model F-19 aircraft.

Compliance: Required prior to further flight, unless accomplished previously.

To prevent engine failure from an incorrect connecting rod, accomplish the following:

(a) For engines that have less than 100 hours time in service (TIS), or unknown TIS, on the effective date of the AD since new, rebuild, or factory overhaul, accomplish the following:

(1) With the engine cold, remove the engine cowling, ground both magnetos, and remove the top spark plugs.

(2) Taking each cylinder in turn:

(i) Position each piston at about 60 degrees before top dead center.

(ii) Insert a small brass rod into the spark plug bore until contact with the top of the piston is achieved.

(iii) Holding the brass rod against the top of the piston, move the propeller back and forth about 30 degrees in a rocking motion to move the crankshaft.

(iv) By observing the brass rod move, ascertain that piston movement responds immediately and synchronously to connecting rod/crankshaft movement; that is, the brass rod must move immediately upon moving the crankshaft.

(v) While checking for synchronous movement between the piston and the crankshaft, there must be no audible indication of differential movement between the piston and the connecting rod/crankshaft.

(3) If for any cylinder, piston movement does not respond immediately and synchronously to crankshaft movement, or if there is an audible indication of differential movement between the piston and the connecting rod/crankshaft, replace the connecting rod with the correct serviceable part for that model engine, and inspect for serviceability, and replace as necessary, other applicable engine parts.

(b) For engines that have 100 hours or more TIS on the effective date of this AD, since new, rebuild, or factory overhaul, no inspection is required.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Atlanta Aircraft Certification Office.

(d) This amendment becomes effective July 13, 1993, to all persons except those persons to whom it was made immediately effective by priority letter AD 93-10-03, issued June 1, 1993, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on June 17, 1993.

Michael H. Borfitz,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-15146 Filed 6-25-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 93-44]

Certifications Under Strategic and Critical Materials Stock Piling Act; Conforming Amendment

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide, in conformance with current law and administrative practice, that the Defense Logistics Agency is the proper party to certify that imported goods have been acquired under the Strategic and Critical Materials Stock Piling Act, and are thus entitled to duty-free entry under the Harmonized Tariff Schedule of the United States. Also, the Customs Regulations are further amended to reflect a recodification of the stockpile procurement and management authorities under the Act.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Roland L. Bernier, Collections/Statistics Branch, Office of Trade Operations, (202) 927-0051.

SUPPLEMENTARY INFORMATION:

Background

Under the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98

et seq. (the Act), stocks of certain materials identified as strategic and critical to the military, industrial and essential civilian needs of the United States may be acquired in advance, and retained and managed, for purposes of national defense, in order to decrease and, when possible, preclude a dangerous and costly dependence by the U.S. upon foreign sources for supplies of such materials during times of national emergency. Materials procured for this purpose constitute the "National Defense Stockpile" (50 U.S.C. 98b).

As stated in § 10.102(b)(2), Customs Regulations (19 CFR 10.102(b)(2)), imported merchandise procured in accordance with the Act is entitled to free entry under subheading 9808.00.40, Harmonized Tariff Schedule of the United States (HTSUS). Both this HTSUS subheading as well as § 10.102(b)(2) currently require the General Services Administration (GSA) to certify that such imported goods are strategic and critical materials acquired under the Act, in order to entitle them to free entry.

In this latter connection, the Act, prior to 1979, specified that the GSA had responsibility for the procurement and management of such stockpile materials. As referenced in § 10.102(b)(2), these authorities were codified at 50 U.S.C. 98b.

In 1979, however, Congress substantially revised the Act, vesting the stockpile procurement and management authorities directly in the President, and recodifying such authorities at 50 U.S.C. 98e (Pub. L. 96–41, 93 Stat. 319).

While the President thereafter redelegated these authorities back to the GSA, Congress, in 1986, again amended the Act to require the President to appoint a "National Defense Stockpile Manager" (50 U.S.C. 98h–7), and, pursuant to this, by Executive Order (E.O.) 12626 dated February 25, 1988, the President appointed the Secretary of Defense to act in this capacity, delegating to the Secretary the stockpile procurement and management authorities set forth in 50 U.S.C. 98e. The Secretary of Defense subsequently redelegated these authorities within the Department of Defense, specifically to the Defense Logistics Agency (DLA). As a result, despite the outdated references to the GSA in subheading 9808.00.40, HTSUS, and § 10.102(b)(2), it is now Customs policy and practice to accept such certifications directly from the DLA.

Accordingly, in order to keep pace with these changes, Customs has determined to remove the references in § 10.102(b)(2) to the "General Services Administration" and to "50 U.S.C. 98b", wherever appearing therein, and to add, in place thereof, the "Defense Logistics Agency" and "50 U.S.C. 98e", respectively.

In addition, the DLA has agreed to coordinate with Customs in order to correct the aforecited HTSUS provision.

Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12291

Inasmuch as these amendments merely conform the Customs Regulations to existing law and administrative practice as noted above, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These amendments do not meet the criteria for a "major rule" as defined in E.O. 12291; therefore, a regulatory impact analysis is not required thereunder.

Drafting Information

The principal author of this document was Russell Berger, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Reporting and recordkeeping requirements.

Amendments to the Regulations

Part 10, Customs Regulations (19 CFR part 10), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

§ 10.102 [Amended]

2. Section 10.102(b)(2) is amended by removing the references to "General Services Administration" and to "50 U.S.C. 98b", wherever appearing therein in the heading and the text, and by adding, in place thereof, "Defense Logistics Agency" and "50 U.S.C. 98e", respectively.

George J. Weise,

Commissioner of Customs.

Approved: June 18, 1993.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93–15145 Filed 6–25–93; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 511

Increase in the Per Diem Allowance Paid to Members of the Special Industry Committee

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document increases the per diem allowance that is paid to members of special industry committees in American Somoa to the rate specified in Chapter 304 of the Department of Labor Supplement to the Federal Personnel Manual. The latest increase is in accordance with changes in General Schedule salary rates effective January 10, 1993, for regular employees of the U.S. Government.

The industry committee, whose members are appointed by the Secretary of Labor and includes representatives of employees, employers, and the public, meets periodically pursuant to the Fair Labor Standards Act (FLSA), to review the wage rates in various industries and to recommend minimum wage increases where appropriate. The FLSA authorizes the establishment of minimum wage rates in American Samoa, that may be lower than the mainland minimum wage rate, by special industry committee recommendation.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Charles E. Pugh, Acting Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–5409. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: It is standard practice to compensate special industry committee members for each day actually spent in the work of the committee and to adjust such compensation in accordance with changes in General Schedule salary rates. This notice increases the

compensation of each member of the special industry committee to the rate specified in Chapter 304 of the Department of Labor Supplement to the Federal Personnel Manual in accordance with changes in General Schedule salaries effective January 10, 1993. It should be noted that the language of the amendment references the section of the Federal Personnel Manual containing the increased per diem rate for experts and consultants rather than referencing the rate itself. This change eliminates the necessity of publishing a final rule amending the regulations to reflect an increased per diem rate each time an industry committee convenes.

As this amendment concerns only a rule of agency practice and is not substantive, having only a minimal impact on the interests of the general public, notice of proposed rulemaking and opportunity for public participation are not required by 5 U.S.C. 553. Furthermore, good cause is found to make the regulation effective immediately in order that industry committee members may be afforded the benefit of the revised rates for the hearing scheduled to commence the week of June 7, 1993. Accordingly, this revision shall be effective immediately.

Paperwork Reduction Act

The changes made by this notice impose no reporting or recordkeeping requirements on the public.

Executive Order 12291

The rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirement to prepare regulatory flexibility analyses does not apply.

This document was prepared under the direction and control of Charles E. Pugh, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 511

Administrative practice and procedure, American Samoa, Minimum wages, Wage and hour division.

For the reasons set out in the Preamble, part 511 of chapter 5 of Title 29 of the Code of Federal Regulations is amended as set forth below.

Signed at Washington, DC, on this 22nd day of June 1993.

Charles E. Pugh,

Acting Administrator, Wage and Hour Division.

PART 511—WAGE ORDER PROCEDURE FOR AMERICAN SAMOA

1. The authority citation for part 511 continues to read as follows:

Authority: Secs. 5, 6, 8, 52 Stat. 1062, 1064 (29 U.S.C. 205, 206, 208) secs. 2–12, 60 Stat. 237–244; (5 U.S.C. 1001–1011). Section 4 is issued under sec. 5, 52 Stat. 1062 as amended (29 U.S.C. 205).

2. Section 511.4 is revised to read as follows:

§ 511.4 Compensation of committee members.

Each member of an industry committee will be allowed per diem compensation at the rate specified in Chapter 304 of the Department of Labor Supplement to the Federal Personnel Manual for each day actually spent in the work of the committee, and will, in addition, be reimbursed for necessary transportation and other expenses incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or an authorized representative. Any other necessary expenses that are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon, certification of the Administrator or an authorized representative.

[FR Doc. 93–15095 Filed 6–25–93; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AG21

Special Allowance To Restore Certain Social Security Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has adopted regulations concerning entitlement to benefits under the Restored Entitlement Program for Survivors (REPS). These benefits are authorized by statute to replace social security benefits which were available to surviving spouses and children of certain persons who died as a result of service-connected disabilities but which were eliminated under prior legislation. This amendment will change from eleven months to six months after the initial month of eligibility the period during which claimants must apply in order to receive benefits from the first day of the month in which eligibility arose. It also provides for the provision of equitable relief to certain persons who may have relied on the former regulation. The intended effect of this amendment is to bring VA regulations into conformance with the statutory provisions pertaining to entitlement to REPS benefits.

EFFECTIVE DATE: This amendment is effective June 28, 1993.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 amended title 42, United States Code, to discontinue payment of the social security mother's and child's insurance benefits at the point at which the child reached age sixteen. Previously, such benefits had terminated when the child reached age eighteen. Section 156 of Public Law 97–377 restored such benefits for surviving spouses and children of individuals who died on active duty prior to August 13, 1981, or died as a result of service-connected disability incurred or aggravated prior to that date. This law, which established the REPS, provided that payment of the mother's and child's benefits would be in the amount, if any, that beneficiaries would have received under section 202 of the Social Security Act (codified at 42 U.S.C. 402) if the child were under sixteen years of age. Section 202(j) of the Social Security Act provides that the mother's (or father's) and child's benefits may be paid from the beginning of the first month in which eligibility arose, where application for benefits is filed prior to the end of the sixth month immediately succeeding that month.

VA issued an implementing regulation, codified at 38 CFR 3.812(f)(2), providing that benefits could

be paid from the first day of the month in which the claimant first became eligible, if application was filed within eleven months following that month. However, in view of the *sua sponte* ruling by the Court of Veterans Appeals in *Cole* v. *Derwinski*, U.S. Vet. App. No. 89–30 (judgment entered July 27, 1992), invalidating this regulation, VA reviewed the statutory authority for payment of benefits under this program. As a result of this review, we now believe that the six-month application period for payment of benefits from the month in which eligibility arose, provided by the social security statutes, must be applied under the REPS program. This amendment corrects the regulation in this regard.

Since the provisions of the Social Security Act require that application be filed within six months after the month in which eligibility arose in order for payment to be made from that month, there was no authority under section 156 to make such payment to those persons who applied after six months but before eleven months from the month in which eligibility arose. However, persons who have been paid benefits pursuant to 38 CFR 3.812(f)(2) from the month in which eligibility arose, based on applications filed within eleven months, but not within the six months, of that month, will be permitted to keep those benefits since payment was based on administrative error and, under 38 U.S.C. 5112(b)(10) and 38 CFR 3.500(b)(2), the effective date for reduction of benefits in such situations is the date of last payment. We realize that there may be persons who first became eligible for REPS benefits within eleven months prior to the month in which this amendment became effective but who did not or will not apply for benefits within the required six-month period because of reliance upon the eleven-month filing period specified in the former regulation. This amendment establishes a policy under which equitable relief will be provided to such persons under 38 U.S.C. 503(a), if they can establish to the satisfaction of the Secretary that they did not make application within the required six-month period due to reliance on the former regulation. Section 503(a) authorizes the Secretary to provide equitable relief to persons denied benefits by reason of administrative error on the part of the Federal Government.

VA is issuing a final rule to amend the provisions of 38 CFR 3.812(f)(2). This amendment is necessary to make the regulatory provisions concerning restored entitlement pursuant to section 156 of Public Law 97–377 conform with the statute. The portion of the amendment which changes from eleven months to six months after the month in which eligibility arose the period during which claimants must apply in order to receive benefits from that month is an interpretative rule. The portion of the rule which authorizes equitable relief to certain persons who relied upon the prior regulatory provision is a general statement of VA policy. Under these circumstances, publication as a proposal for public notice and comment is unnecessary pursuant to the exception provided in 5a U.S.C. 553(b)(A). Also, in accordance with 5 U.S.C. 553(d)(2), this rule is effective on the date of its publication in the **Federal Register**.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602. In any event, the Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. The reason for this certification is that this amendment will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order No. 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more;

(2) It will not cause a major increase in costs or prices; and,

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

There is no affected Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: March 17, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.812 [Amended]

2. In § 3.812, remove the words "11 months" in paragraph (f)(2) and add, in their place, the words "6 months"; redesignate paragraph (f)(4) as paragraph (f)(5), and add a new paragraph (f)(4); and revise the authority citation at the end of the section to read as follows:

§ 3.812 Special allowance payable under section 156 of Pub. L. 97–377.

* * * * *

(f) * * *

(4) Any claimant who meets all of the requirements of paragraphs (f)(4)(i), (ii), and (iii) of this section will be granted equitable relief under the authority of 38 U.S.C. 503(a) in the amount of the special allowance the claimant would have received had the claimant applied for the special allowance within 6 months following the month in which the claimant first became eligible for the special allowance.

(i) The claimant first became eligible for this special allowance within 11 months prior to June 1993;

(ii) The claimant applies for benefits more than 6 months following the month in which becoming eligible for the special allowance; and,

(iii) The claimant establishes to the satisfaction of the Secretary that the claimant did not apply for the special allowance within the 6-month period following the month in which first becoming eligible due to reliance on the former provision of paragraph (f)(2) of this section which stated that for claims received within 11 eleven months of the month in which the claimant first became eligible for the special allowance benefits would be payable for all periods beginning on or after the first day of the month that the claimant first became eligible for the special allowance.

* * * * *

(Authority: Sec. 156, Pub. L. 97–377, 96 Stat 1830, 1920 (1982); 38 U.S.C. 503)

[FR Doc. 93–15165 Filed 6–25–93; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AF34

Veterans Education; Implementation of Legislation Affecting the Post-Vietnam Era Veterans' Educational Assistance Program

AGENCY: Department of Defense and Department of Veterans Affairs.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published Monday, June 7, 1993 (58 FR 31910). The regulations implemented provisions of the Act to amend title 38, United States Code, which was enacted on March 31, 1991.

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202-233-2092.

SUPPLEMENTARY INFORMATION:

Background

The final regulations which are the subject of these corrections implemented provisions of Public Law 102-16 which apply to the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). Chief among these was one which included flight training in this program.

Need for Correction

As published the regulations contain incorrect references to other regulations. These may prove to be misleading and need to be corrected.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32

1. The authority citation for part 21, subpart G continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In § 21.5072(h)(1) in the first sentence the phrase "§ 21.5138(a)(4)(viii)" is revised to read "§ 21.5138(a)(5)(viii)".

3. In § 21.5072(h)(2) in the second sentence the phrase "§ 21.5138(a)(4)(viii)" is revised to read "§ 21.5138(a)(5)(viii)"

Approved: June 21, 1993.

Marjorie M. Leandri,

Chief, Records, Reports, and Regulations Division.

[FR Doc. 93-15105 Filed 6-25-93; 8:45 am]

BILLING CODE 8320-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV8-1-5680; A-1-FRL-4653-9]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Particulate Matter (PM-10): Group III Areas State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision establishes and requires the implementation of primary and secondary particulate matter standards consistent with the national ambient air quality standards (NAAQS) for particulate matter (PM-10). The intended effect of this action is to approve three (3) regulations, amended by West Virginia in order to conform with the requirements established for Group III areas for PM-10 published in the Federal Register on July 1, 1987. This action is being taken under Section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective August 27, 1993, unless notice is received by July 28, 1993, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and West Virginia Department of Commerce, Labor, and Environmental Resources Department of Environmental Protection Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, (215) 597-9781.

SUPPLEMENTARY INFORMATION: On August 15, 1990, the West Virginia Department of Commerce, Labor, and Environmental Resources submitted to EPA a revision to the West Virginia State Implementation Plan (SIP) to achieve and maintain the national ambient air quality standards (NAAQS) for particulate matter (PM-10). The revision consists of: (1) An amended Regulation VII—"Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"; (2) An amended Regulation XI—"Prevention of Air Pollution Emergency Episodes"; and (3) An amended Regulation XIV—"Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration".

August 15, 1990 submittal is consistent with the SIP revision requirements as detailed in the July 1, 1987 Federal Register notice (52 FR 24672). The amended West Virginia regulations are consistent with the NAAQS for PM-10, and specify:

- PM-10 as an indicator of particulate matter.
- Exceedance levels.
- Reference methods for measurement of PM-10.
- Emergency episode plan revisions to include PM-10.
- Prevention of Significant Deterioration (PSD) regulation standards for both PM-10 and Total Suspended Particulate (TSP), with standards for emission rates and significant monitoring concentrations.

Summary of SIP Revision

On July 1, 1987, EPA promulgated national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) (52 FR 24634). The PM-10 standards replace the total suspended particulate (TSP) standards promulgated by EPA in 1971. Also on July 1, 1987, EPA promulgated changes to the policies and regulations by which it will implement the NAAQS for PM-10 in 40 CFR Parts 51 and 52 (52 FR 24672).

Using the classification criteria established at 52 FR 24672, EPA has

preliminarily designated areas within each state as Group I, II, or III based upon an area's probability of attaining the PM–10 standard. The July 1, 1987 **Federal Register** notice requires State Implementation Plan (SIP) revisions for all classified Group I, II, and III areas and indicates the SIP revision requirements for each classification.

On August 7, 1987, the State of West Virginia was classified at 52 FR 29383 as follows:

Group I—
Brooke County—Follansbee Area
Group II—
Hancock County
Remainder of Brooke County not in Group I
Group III—
All other Areas not classified as Group I or Group II.

The Clean Air Act, as subsequently amended in 1990 ("the Act"), affects these classifications, and the associated requirements, in a number of ways. First, the Group I area identified as the "Follansbee Area" was classified as a "moderate" nonattainment area for PM–10 by operation of law according to amended section 107(d)(4)(B)(i) of the Act. As a result of this nonattainment designation, the State of West Virginia was required to submit to EPA a SIP revision and attainment demonstration for the Follansbee Area by November 15, 1991 pursuant to amended section 189(a)(2)(A) of the Act. West Virginia submitted the required SIP revision and attainment demonstration to EPA on November 15, 1991 and the submittal is currently being considered under a separate rulemaking. The requirements of the amended Act superseded those established for Group I areas in the **Federal Register** on July 1, 1987.

The amended Act also eliminated the need for states to seek approval of "committal" SIP revisions for Group II areas as prescribed in the July 1, 1987 **Federal Register** notice. The Group II areas are to be addressed using the authorities established in section 107 of the Act concerning the classification of areas as attainment or nonattainment with regard to the NAAQS. On September 22, 1992, a portion of Hancock and Brooke Counties, West Virginia, namely the City of Weirton, was proposed to be classified as a "moderate" nonattainment area for PM–10 under amended section 107 of the Act (57 FR 43846). This represents the Group II area identified above. If this area is designated as nonattainment under a final rulemaking action, the State of West Virginia will be required to submit to EPA a SIP revision and attainment demonstration for the nonattainment area within 18 months of the final designation to nonattainment. Therefore, the Act also supersedes the Group II requirements.

The Act did not affect the requirements established for Group III areas. The July 1, 1987 **Federal Register** notice requires states to seek approval of SIP revisions as required under the preconstruction review program and to codify other minor regulatory changes as needed. In the July 1, 1987 **Federal Register** notice, it is presumed that the existing West Virginia SIP is adequate to demonstrate attainment and maintenance of the NAAQS for PM–10 in all Group III areas in the State. On August 15, 1990, the State of West Virginia responded to the July 1, 1987 **Federal Register** by submitting three (3) regulations amended to reflect the revised particulate matter standards as a SIP revision. This SIP revision addresses Group III areas only.

EPA Evaluation

EPA has evaluated West Virginia's SIP revision request and concluded the following: (1) The amended regulations conform with the revised primary and secondary NAAQS for PM–10; (2) the amended regulations are clearly enforceable; and (3) the applicable requirements of 40 CFR Part 51 have been met. A more detailed evaluation is provided in the Technical Support Document available upon request from the regional EPA office listed in the **ADDRESSES** section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on August 27, 1993.

Final Action

EPA is approving the three (3) regulations submitted by the West Virginia Department of Commerce, Labor, and Environmental Resources as a revision to the West Virginia SIP. EPA's review of this material indicates that it conforms to the requirements of 40 CFR parts 51 and 52, and to the July 1, 1987 promulgation of NAAQS for PM–10 in the **Federal Register**.

The Agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis for would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

This SIP revision establishing revised particulate matter standards in West Virginia has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue that temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 28, 1993.

William M. Bulman,

Acting Regional Administrator, Region III.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(28) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(28) Revisions to the State Implementation Plan submitted by the West Virginia Department of Commerce, Labor, and Environmental Resource on August 15, 1990.

(i) Incorporation by reference.

(A) Letter from the West Virginia Department of Commerce, Labor, and Environmental Resources dated August 15, 1990 submitting a revision to the West Virginia State Implementation Plan.

(B) Amendments to the West Virginia Code Chapter 16, Article 20—Regulation VIII—"Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"; Regulation XI—"Prevention of Air Pollution Emergency Episodes"; and Regulation XIV—" Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration". All three rules were adopted on March 19, 1990 and became effective April 25, 1990.

(ii) Additional materials.

(A) Remainder of the State Implementation Plan revision request submitted by the West Virginia Department of Commerce, Labor, and Environmental Resources on August 15, 1990.

[FR Doc. 93–15090 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–60–P

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40 CFR Part 52

[WI24–2–5845; FRL–4654–5]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving Wisconsin particulate matter rules as a revision to Wisconsin's State Implementation Plan (SIP) for particulate matter. USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act.

DATES: This action will be effective August 27, 1993, unless notice is received within 30 days that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Daniel Meyer at (312) 886–9401, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments should be sent to: Carlton Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of today's revision to the Wisconsin SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Daniel Meyer, Air Toxics and Radiation Branch, Regulation Development Section (AT–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–9401.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On July 1, 1987, USEPA adopted regulations revising the national ambient air quality standard for PM. In its revision, USEPA replaced total suspended particulates (TSP) as an indicator for the PM standard with a new indicator that only includes those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. To implement the revised ambient standards, USEPA requires that states revise their SIPs in accordance with the revised federal regulations.

On March 13, 1989, Wisconsin Department of Natural Resources (WDNR) submitted rule package AM–2–88. AM–2–88 modifies Chapter NR, Sections 400.02, 404.02, 405.02, 406.04, and 484.03 of the Wisconsin Administrative Code (WAC). AM–2–88 pertains to changes in definitions for the establishment of an ambient air quality standard for PM. The rule package also includes a modification to the criteria which are used to exempt sources from a Prevention of Significant Deterioration review. Similarly on May 10, 1990, WDNR submitted rule package AM–22–88. AM–22–88 modifies Chapter NR, Sections 404.04 and 484.03 of the WAC. AM–22–88 pertains to PM standards, including the addition of ambient air quality standards for PM, and the deletion of TSP as an indicator of particulate matter. Both rule packages have been submitted as revisions to the SIP.

On December 23, 1992, USEPA proposed to disapprove the two rule packages as a revision to the Wisconsin SIP. The basis for this disapproval was the inclusion of certain provisions which appeared to permit the exercise of State discretion without USEPA approval. In response, WDNR submitted comments on January 22, 1993.

II. Analysis of State Submittal

The two packages are being considered for approval/disapproval as one interrelated revision to the SIP. Essentially, AM–2–88 defines PM, while AM–22–88 establishes standards for PM. Many of the definitions presented in AM–2–88 incorporate determinations to be made in the future by the exercise of WDNR discretion, without requiring USEPA review and approval of any resulting determination. For instance, AM–2–88 allows for the PM attainment status to be determined not only by the monitoring methodology approved by USEPA, but also by the use of

monitoring methodology established by WDNR (but not approved by USEPA). However, in WDNR's January 22, 1993, comments, Wisconsin specifies the USEPA test methods it utilizes to measure PM, and maintains it only uses test methods approved by USEPA. In addition, the State commits to obtaining prior USEPA approval for test methods not approved by USEPA. USEPA finds this commitment acceptable.

In addition, Rule NR 484.03(3) is incorrectly cited in Wisconsin's submission as NR 484.06(3). The citation has since been corrected in the WAC.

This notice approves Wisconsin's revision.

III. Rulemaking Action

USEPA is approving the Wisconsin particulate matter rules as a revision to the Wisconsin SIP. Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on August 27, 1993. However, if we receive notice by July 28, 1993, that someone wishes to submit adverse comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The Agency has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 11, 1993.

Valdas V. Adamkus,

Regional Administrator.

For the reasons cited in the preamble, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671(q).

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(65) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(65) On March 13, 1989, and May 10, 1990, Wisconsin Department of Natural Resources (WDNR) submitted rule packages AM–2–88 and AM–22–88, respectively, as revisions to its state implementation plan for particulate matter. AM–2–88 was published in December, 1988, and became effective on January 1, 1989. AM–2–88 modifies Chapter NR, Sections 400.02, 404.02, 405.02, 406.04, and 484.03 of the Wisconsin Administrative Code (WAC). AM–22–88 was published in September, 1989, and became effective on October 1, 1989. AM–22–88 modifies Chapter NR, Sections 404.04 and 484.03 of the WAC.

(i) Incorporation by reference.

(A) The rule packages revise NR 400.02, 404.02, 404.04, 405.02, 406.04, and 484.03 of the Wisconsin Administrative Code.

(ii) Additional information.

(A) A January 22, 1993, letter from D. Theiler, Director, Bureau of Air Management, WDNR, provides additional information responding to USEPA's proposed disapproval of the SIP revision, and contains WDNR's commitment to using only test methods approved by USEPA.

[FR Doc. 15089 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–60–P

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40 CFR Part 52

[MN3–1–5107; FRL–4657–9]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: With the publication of this action, USEPA is taking three actions. First, the USEPA is approving a revision to the Minnesota State Implementation Plan (SIP) for carbon monoxide (CO) submitted by the State on August 31, 1989, which removes the Lake George Interchange roadway improvement project (10th Avenue at First Street South) in St. Cloud, Minnesota, from the CO SIP. This measure was approved on December 13, 1979, into the CO SIP. Second, the USEPA is approving three transportation control measures (TCMs): (Enforcement of an existing ban on

double parking and extended idling on St. Germain corridor, removal of signs which encourage using the West St. Germain corridor and development of a signing plan directing through traffic to alternate routes, and creation of left-hand turns on Division Street between 19½ and 31st Avenues to decrease traffic congestion) mentioned in the State's August 16, 1982, SIP revision. Third, the USEPA is disapproving two TCMs proposed in the 1982 CO SIP submittal as two of five TCMs which would provide emission reductions during a requested one year delay in implementing the Lake George Interchange roadway improvement project. Since the delay has been superseded by a request for removal, these TCMs are no longer relevant and would serve no purpose in the CO SIP. The disapproved TCMs include the following: Implementation of a media campaign designed to encourage use of transportation routes which will improve air quality in the city; and distribution of a pamphlet by local merchants encouraging the use of alternate transportation routes.

DATES: This action will be effective August 27, 1993 unless notice is received by July 28, 1993, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: A copy of this revision to the Minnesota SIP is available for inspection at:

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Angela T. Lee, at (312) 353–5142, before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air Enforcement Branch (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rulemaking should be addressed to:

William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Angela T. Lee, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5142.

SUPPLEMENTARY INFORMATION: On December 13, 1979, USEPA approved the Lake George Interchange roadway improvement project, also known as the T.H. 23/10th Avenue transportation control measure (TCM) project, into the CO SIP for St. Cloud Minnesota (44 FR 72116). On August 16, 1982, the Minnesota Pollution Control Agency (MPCA) submitted an amendment to the Air Quality Plan for Transportation for the St. Cloud Metropolitan Area as a revision to the SIP. This submittal requested that five TCMs be implemented in 1982 in lieu of a delay in funding and implementation of the Lake George Interchange from 1982 to 1983. On May 18, 1983, USEPA proposed to approve the TCMs and disapprove the delay of the project (48 FR 22335).[1] USEPA never took final action on the August 16, 1982 submittal.

On August 31, 1989, the MPCA submitted a request to revise the St. Cloud CO SIP which would remove the proposed Lake George Interchange roadway improvement project from the CO SIP. The submittal included information supporting the revision. The Lake George Interchange roadway improvement project was one of a number of projects in the St. Cloud SIP designed to improve traffic flow and enhance air quality in the downtown area. All of the projects have been completed, with this one exception. The traffic flow has decreased in the critical area along St. Germain Street since these measures have been implemented. In addition, the MPCA has demonstrated that this project is not necessary to attain or maintain the National Ambient Air Quality Standards (NAAQS) for CO.

USEPA Evaluation and Rulemaking Action

A. Removal of the Lake George Interchange Roadway Improvement Project

By its August 31, 1989, SIP revision request, Minnesota seeks removal of the Lake George Interchange project from its CO SIP. This revision would supersede the State's previous request to delay implementation of that project.

Section 193 of the Clean Air Act (CAA) provides that a preenactment control measure may not be removed from a SIP for a nonattainment area unless it is replaced by a measure that provides equivalent or greater emission reductions. The purpose of the Lake George Interchange roadway improvement project was to encourage traffic to bypass the critical area along St. Germain Street. Evidence suggests that roadway improvements in the area have significantly reduced traffic volume on St. Germain Street.

In 1978, average daily traffic volume (ADT) on St. Germain Street was approximately 8,000 vehicles. In 1982, the ADT had fallen to 7,600 vehicles, and by 1987, it had fallen further to only 7,200. Other roadways outside of the St. Germain Street canyon generally increased in volume by approximately 2 percent per year. Thus, the ADT on St. Germain Street fell by 10 percent over the nine-year period while the ADT on other roadways which are better able to handle the traffic increased by almost 20 percent. In addition to the reduced traffic volume on St. Germain Street, the evolving Federal Motor Vehicle Control Program (FMVCP) continues to provide further emission reductions in the CO "hotspot" by reducing vehicular emissions through fleet turnover.

In support of the 1989 request to remove the Lake George Interchange roadway improvement project from the SIP, the MPCA submitted a report addressing the current status of CO levels in the City of St. Cloud. This report was intended to demonstrate monitored attainment and was accompanied by related documents and supplemental data reports. Detailed information on this data is contained in the USEPA's August 14, 1990, Technical Support Document (TSD).

Based on CO dispersion modeling, the MPCA has demonstrated that the NAAQS have been attained and will be maintained in St. Cloud through the year 2000 without implementation of the Lake George Interchange roadway improvement project. The model was used to compute CO concentrations at receptor sites located at the four area intersections with the highest traffic volumes and the former and current monitoring site. A further discussion of the modeling is contained in the August 14, 1990, TSD.

USEPA believes that the emission reductions that would have occurred had the Lake George Interchange roadway improvement project been implemented are provided by three transportation control measures. These measures have accomplished the purpose of the Lake George Interchange roadway improvement project—that of diverting traffic from St. Germain Street—and they continue to provide emission reductions in the CO "hotspot." These measures were

[1] In the May 18, 1983 Notice of Proposed Rulemaking, USEPA proposed action on the delay of a second project (9th and 10th Avenue project). Since the MPCA never formally requested the delay of the second project, the USEPA is not taking further action on the delay of this project.

submitted as part of Minnesota's August 16, 1982, SIP submittal and were implemented in 1982. USEPA proposed approval of these measures on May 18, 1983, but never took final action to approve these measures into the SIP. Today, USEPA is taking final action to approve the three measures into the SIP as a replacement for the Lake George Interchange project. These measures include the following:

(1) Enforcement of an existing ban on double parking and extended idling on St. Germain Street,

(2) Creation of left-hand turns on Division Street between 19½ and 31st Avenues to decrease traffic congestion, and

(3) Removal of signs which encourage using the West St. Germain corridor and development of a signing plan directing through traffic to alternate routes.

These measures are currently being implemented and are discussed in an addendum to the August 14, 1990, TSD.

B. Disapproval of Two Transportation Control Measures

The State's August 16, 1982, submittal also included two additional transportation control measures. Today USEPA is disapproving these measures because they were to be implemented only during the proposed delay of the Lake George Interchange roadway improvement project. Since the delay has been superseded by a request for removal, the measures are no longer relevant and would serve no purpose in the SIP.

Final Action

By today's action, USEPA is approving the removal of the Lake George Interchange from Minnesota's approved CO SIP. In addition, USEPA is approving three new TCMs into the CO SIP and disapproving two other submitted TCMs. The measures being approved include the following:

(1) Enforcement of an existing ban on double parking and extended idling on St. Germain Street,

(2) Creation of left-hand turns on Division Street between 19½ and 31st Avenues to decrease traffic congestion, and

(3) Removal of signs which encourage using the West St. Germain corridor and development of a signing plan directing through traffic to alternate routes.

EPA is also disapproving the following two TCMs:

(1) Implementation of a media campaign designed to encourage use of transportation routes which will improve air quality in the city, and

(2) Distribution of a pamphlet by local merchants encouraging the use of alternate transportation routes.

Because USEPA considers this action noncontroversial and routine, the Agency is taking action today without prior proposal. The action will become effective on August 27, 1993. However, if USEPA receives notice by July 28, 1993 that someone wishes to submit critical comments, then USEPA will publish the following: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of fewer than 50,000.

SIP approvals under section 110 subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

USEPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new federal requirements. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 1993. Filing petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2).]

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Incorporation by reference, Carbon monoxide, Environmental protection.

Note: Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the Federal Register on July 1, 1982.

Dated: May 11, 1993.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1220 is amended by adding a new paragraph (c)(27) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(27) On August 16, 1982, the MPCA submitted an amendment to the St. Cloud Area Air Quality Control Plan for Transportation as a State Implementation Plan revision. This revision to the SIP was adopted by the Board of the Minnesota Pollution Control Agency on July 27, 1982. On August 31, 1989, the Minnesota Pollution Control Agency submitted a revision to the Minnesota State Implementation Plan (SIP) for carbon monoxide deleting the Lake George Interchange roadway improvement project (10th Avenue at First Street South) from its St. Cloud transportation control measures. This revision to the SIP was approved by the Board on June 27, 1989.

(i) Incorporation by reference.

(A) Letter dated August 16, 1982, from Louis J. Breimburst, Executive Director, Minnesota Pollution Control Agency to Valdas V. Adamkus, Regional Administrator, United States Environmental Protection Agency—Region 5 and its enclosed amendment to the Air Quality Plan for Transportation for the St. Cloud Metropolitan Area entitled, "Staff Resolution," measures 1, 4 and 5 adopted by the Minnesota Pollution Control Agency on July 27, 1982.

(B) Letter dated August 31, 1989, from Gerald L. Willet, Commissioner, Minnesota Pollution Control Agency to Valdas V. Adamkus, Regional Administrator, United States Environmental Protection Agency—Region 5.

[FR Doc. 93–15141 Filed 6–25–93; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 81

[MN2–1–5105; FRL–4672–2]

Redesignation of Areas for AIR Quality Planning Purposes; Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a change of the carbon monoxide (CO) designation for the City of St. Cloud from nonattainment to attainment. The revision is based on a request from the State of Minnesota to redesignate this area and on the supporting data the State submitted. Under section 107(d)(3)(E) of the Clean Air Act, designations can be changed if sufficient data are available to warrant such change. USEPA is also finding that Minnesota has adequately responded to USEPA's May 26, 1988, notice of inadequacy of the St. Cloud CO State Implementation Plan (SIP).

DATES: This action will be effective August 27, 1993 unless notice is received by July 28, 1993, that someone wishes to submit adverse or critical comments on either this action or on an action published elsewhere in today's **Federal Register** which approves a revision to the St. Cloud CO plan. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the redesignation request, the technical support document, and the supporting air quality data are available at the following address for review: (It is recommended that you telephone Angela Lee at 312–353–5142 before visiting the Region 5 office.)

United States Environmental Protection Agency, Region 5, Air Enforcement Branch (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rulemaking should be addressed to:

William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Angela T. Lee, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5142.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the pre-amended Clean Air Act (CAA), the USEPA promulgated the carbon monoxide (CO) attainment status for each area of every State. For Minnesota, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978) codified at 40 CFR 81.324. These area designations may be revised whenever the data warrant. On August 31, 1989, the Minnesota Pollution Control Agency (MPCA) submitted a request for the redesignation of the City of St. Cloud, Minnesota to attainment of the National Ambient Air Quality Standards (NAAQS) for CO. This redesignation request applies to Sherburne, Benton and Stearns Counties. The redesignation request was accompanied by a report containing information supporting the redesignation request. Prior to USEPA's action on that request, on November 15, 1990, the Clean Air Act Amendments (CAAA) of 1990 were enacted. Public Law 101–549, codified at 42 U.S.C. 7401–7671q. Pursuant to section 107(d)(1)(C) of the amended Act, the St. Cloud area retained its designation of nonattainment upon enactment of the CAAA, since St. Cloud was designated nonattainment prior to enactment. (See 56 FR 56694, November 6, 1991, and 57 FR 56762, November 30, 1992.)

Requirements for Redesignation

Although Minnesota submitted its redesignation request before enactment of the CAAA, the amended Act provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the NAAQS; (ii) The Administrator has fully approved the applicable implementation plan for the area under section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (v) The State containing such area has met all requirements applicable to the area under section 110 and part D.

USEPA's redesignation policy may be found in the General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992), 57 FR 18070 (April 28, 1992), and in policy memoranda.

The NAAQS for CO are 9 parts per million (ppm) for an 8-hour average concentration not to be exceeded more than once per year, and 35 ppm for a 1-hour average concentration not to be exceeded more than once per year. Further clarification is given in a May 27, 1983, memorandum from Richard G. Rhoads, USEPA, to Gary L. O'Neal, USEPA, Subject: Summary of NAAQS Interpretation. This memorandum explains that the 8-hour concentrations are to be based on running 8-hour averages, with the convention that a monitored violation of the NAAQS requires at least two non-overlapping 8-hour averages above the level of the standard.

Data Supporting the Requested Redesignation

In support of the redesignation request, the MPCA submitted a report addressing the current status of CO

levels in the City of St. Cloud. This report was accompanied by related documents and supplemental data reports. Detailed information on this data and USEPA's review of it is contained in the USEPA's August 9, 1990, and August 19, 1992, Technical Support Documents, which are available at the Region 5 Office listed above.

A. Air Quality Data

Minnesota has shown compliance with the first requirement of section 107(d)(3)(E)—that the CO NAAQS has been fully attained. Minnesota demonstrated that there have been no monitored violations of the CO standard during the 1986 through 1989 time period. The 911 St. Germain Street monitor recording a violation of the standard in 1985 was moved to 810 St. Germain Street in 1987. The reason for the relocation of the monitor was an infestation of rats in the building housing the previous monitor which made servicing the monitor unsafe. Consequently, there have not been 2 complete years of continuous monitoring data at the original monitoring site after the violation occurred in 1985. However, the MPCA has demonstrated through modeling that the area is in attainment. Additionally, no monitored violations occurred through late 1990. In late 1990 the CO monitor was removed from the area. A new monitor is in place at the City Hall building located at trunk highway 23 and 4th avenue. This intersection had the highest modeled concentration in the central business district.

B. CO Emission Control Measures

Minnesota has met the second requirement of having a fully approved SIP (see 44 FR 72116, December 13, 1979, and the SIP revision for St. Cloud published elsewhere in today's **Federal Register** and 40 CFR 52.1220). The Part D New Source Review (NSR) SIP for the State of Minnesota has not been approved. Under the CAAA, the emission inventory SIP and the Part D NSR SIP for carbon monoxide are not due until November 15, 1993. Pursuant to a September 4, 1992, USEPA memorandum from John Calcagni, Director, Air Quality Managements Division, the applicable requirements that an area must satisfy before it can be redesignated are the requirements that were due before the request was submitted. Since the request was submitted before the CO NSR SIP and the emission inventory SIP were due, these SIPs are not "applicable", and do not have to be approved before the redesignation request can be approved.

Minnesota has met the third requirement that the improvement in air quality was due to permanent and enforceable reductions in emissions. The emission reductions which led to attainment after the violation which occurred in 1985 are attributable to the Federal Motor Vehicle Emission Control Program (FMVCP). This program continues to provide emission reductions through fleet turnover and tailpipe emission standards.

C. Maintenance Plan, and Section 110 and Part D Requirements

Minnesota has also met the requirement to provide a maintenance plan as specified in section 175A of the Act. A CO dispersion modeling analysis was conducted based on USEPA's emission model (MOBILE3) and intersection model (CALINE3). Based on the modeling analysis and additional analysis by USEPA, it has been demonstrated that the CO NAAQS have been attained and will be maintained through the year 2003 at the previous monitoring site, where the violation occurred. The modeling submitted by the MPCA showed that the highest concentration in the year 2000 is expected to be 6.3 parts per million (ppm). Based on the expected decrease in emissions due to the Federal Motor Vehicle Control Program and the new tailpipe emissions standards, the highest concentration in the area is expected to remain below 9 ppm and maintain the NAAQS through the year 2003. A public hearing was held on February 23, 1993, for the maintenance plan.

The area has also met the contingency measure requirement of section 175A(d). The State has committed to the installation of a continuous carbon monoxide monitor. This monitor will be used to determine if the area is maintaining the standard and it will trigger the contingency plan if a violation is monitored. The State has committed in a May 25, 1992, resolution that within two months of the notice of violation the Minnesota Pollution Control Agency will submit a schedule to implement contingency measures to correct the violation according to a defined timeframe. The State has also committed to the implementation of previous measures contained in the SIP.

Pursuant to the fifth requirement, the St. Cloud area must have fulfilled the applicable requirements of section 110 and part D. The area has met the requirements of section 110 by having a fully-approved SIP (44 FR 72116, December 13, 1979, and the SIP revision for St. Cloud published elsewhere in today's **Federal Register**). The CO-specific provisions of subpart 3 do not apply to St. Cloud because it is not classified. However, the State must meet the requirements of section 172(c) in order to satisfy the requirements of subpart 1 of part D.

The SIP must require that Reasonably Available Control Measures (RACM) be implemented as expeditiously as practicable and provide for attainment of the NAAQS. At the time USEPA granted full approval of the St. Cloud CO nonattainment plan, the Agency determined that the plan was consistent with the Reasonably Available Control Technology (RACT), RACM, and the section 172(c)(7) requirements of the CAA. The CO SIP did provide for attainment of the CO standard and the St. Cloud area has demonstrated, using modeling, that the area has been in attainment since 1987 and is expected to remain in attainment. USEPA recognizes that St. Cloud has met the applicable RACM and attainment requirements of section 172(c)(1).

The Reasonable Further Progress (RFP) requirement of section 172(c)(2) loses any continued force and importance once an area has reached attainment of the NAAQS. Under its SIP, the State must require RFP toward the goal of attainment. The concept of RFP only has importance in regard to attaining the NAAQS; once an area reaches attainment, the goal is met, and no further progress remains to be made toward that goal. St. Cloud provided for RFP in its SIP. Since the St. Cloud area has now attained the NAAQS, it no longer needs to demonstrate RFP.

Similarly, sections 172(c) (3), (4) and (5) relating to an emission inventory and Part D New Source Review disappear upon redesignation to attainment. Under the CAAA, the emission inventory SIP and the Part D NSR SIP for carbon monoxide is not due until November 15, 1993 for areas which are not classified. Pursuant to a September 4, 1992, USEPA memorandum from John Calcagni, Director, Air Quality Management Division, the applicable requirements that an area must satisfy before it can be redesignated are the requirements that were due before the request was submitted. Since the request was submitted before the CO Part D NSR SIP and emission inventory SIP were due, these SIPs are not "applicable" for purposes of determining whether or not the State has met all section 110 and part D requirements, and do not have to be approved before the redesignation request can be approved. Further, the Part D NSR program will be replaced by the PSD program upon redesignation. The PSD program was delegated under

40 CFR 52.21(u) in full to Minnesota on September 20, 1977, as amended on March 26, 1979, October 15, 1980, and November 3, 1988.

Section 172(c)(6) requires the SIP to include enforceable emission limitations, control measures, means or techniques (including economic incentives such as fees, marketable permits and auctions of emissions rights) and schedules and timetables for compliance, as may be necessary to reach attainment by the attainment date. Since attainment has been reached, no additional measures are needed to provide for attainment. The need for additional measures to ensure that maintenance continues is addressed under the requirements for maintenance plans.

The Section 172(c)(9) contingency measures are required to be undertaken if an area fails to make RFP or to attain the NAAQS by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Moreover, maintenance of the standard is covered by the contingency provisions required under section 175A(d); the State has committed that within two months of the notice of violation the Minnesota Pollution Control Agency will submit a schedule to implement contingency measures to correct the violation according to a defined timeframe. They have also committed to the implementation of previous measures contained in the SIP. Therefore, the State has satisfied the need for contingency measures under section 172(c)(9).

The State has committed to follow USEPA's conformity regulation upon issuance, as applicable.

Rulemaking Action

The redesignation request submitted by the State of Minnesota on August 31, 1989, meets the section 107(d)(3)(E) conditions of the CAAA for redesignation. Therefore, at the request of the State of Minnesota, USEPA is redesignating the City of St. Cloud to attainment of the CO NAAQS.

Also, USEPA concludes that the State has adequately responded to the May 26, 1988, SIP call under section 110(a)(2)(H) of the CAA, which was issued by USEPA to the State concerning the St. Cloud Metropolitan Statistical Area (MSA) (the City of St. Cloud and all additional portions of Stearns, Sherburne, and Benton Counties) on May 26, 1988. A January 10, 1989, letter from Steve Rothblatt to J. Michael Valentine outlined what was required to satisfy the SIP call. The State was required to submit a technical demonstration which assured that previously monitored violations have been eliminated through permanent, enforceable emission reductions and assures maintenance of the air quality standards for CO. This has been accomplished and today's approval releases the State from the May 26, 1988 SIP call for St. Cloud.

Because USEPA considers this action noncontroversial and routine, the agency is approving it without prior proposal. If USEPA receives notification within 30 days of today that a party wishes to comment adversely on this redesignation, USEPA will replace the attainment designation with a nonattainment designation, as noted in the section 107 notice that is expected to be published in October 1992. Furthermore, USEPA will withdraw this direct-final action, publish a proposed rule redesignating St. Cloud to attainment, and accept comment on that proposal. If USEPA does not receive notification of any adverse comments, St. Cloud will be redesignated attainment August 27, 1993 and will retain its attainment designation pursuant to the section 107 notice.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for a redesignation. Each request for redesignation shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 1993. Filing petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2).]

List of Subjects in 40 CFR Part 81

Air pollution control, Environmental protection, Carbon monoxide, Intergovernmental relations.

Dated: May 13, 1993.

Dale S. Bryson,

Acting Regional Administrator.

Part 81 of chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—MINNESOTA

1. The authority citation of part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q, unless otherwise noted.

2. In § 81.324—Minnesota, the Carbon Monoxide table is amended by removing footnote 2 and revising the entries for Benton County, Sherburne County, and Stearns County to read as follows:

§ 81.324 Minnesota.

* * * * *

MINNESOTA—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	* * *
Benton County	August 27, 1993	Attainment		
* * *	*	*	*	* * *
Sherburne County	August 27, 1993	Attainment		
* * *	*	*	*	*
Stearns County	August 27, 1993	Attainment		
* * *	*	*	*	* * *
* * *	*	*	*	* * *

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 93-15142 Filed 6-25-93; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 86

[FRL-4670-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Evaporative Emission Regulations for Gasoline- and Methanol-Fueled Light-Duty Vehicles and Light-Duty Trucks and Heavy-Duty Vehicles; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: On March 24, 1993 EPA finalized a new test procedure to measure evaporative emissions from motor vehicles. This notice makes various corrections to the published final rule.

EFFECTIVE DATE: The corrections to the regulations are effective July 28, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Stout, (313) 741-7805.

SUPPLEMENTARY INFORMATION: On March 24, 1993 EPA finalized a new test procedure to measure evaporative emissions from motor vehicles (58 FR 16002). This action corrects an omission in the published March 1993 final rule. The regulations now include heavy-duty vehicles equipped with methanol-fueled diesel engines in the scope of the evaporative test procedures. The preamble to the March 1993 final rule clearly established EPA's intent to include these vehicles in the scope of the test requirements (see especially 58 FR 16003 through 16006). In addition, this action makes corrections for various typographical and administrative errors in the text of the regulations. These corrections are effective immediately upon publication in the **Federal Register.**

This notice corrects only obvious and unintended errors in the March 1993 final rule, or corrects provisions where the rule mistakenly fails to reflect the Agency's stated intent. Therefore, within the meaning of 5 U.S.C. 553(b)(B) and 307(d)(1) of the Clean Air Act, EPA finds that comment on these technical corrections is unnecessary.

List of Subjects in 40 CFR Part 86

Administrative practice and procedures, Air pollution control, Gasoline, Incorporation by reference, Labeling, Motor vehicle pollution, Motor vehicles, Reporting and recordkeeping requirements.

Dated: June 17, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

Appendix to the Preamble—Table of Changes to Various Sections

Section	Change
1. Authority, Part 86.	None.
2. § 86.096-7	Revise paragraph (h)(6) to include methanol-fueled diesel engines.
3. § 86.096-8	Remove introductory text. Revise heading of paragraph (k).
4. § 86.096-21 ...	Revise cross-referencing.
5. § 86.096-30 ...	Revise cross-referencing. Add paragraph (a)(18) to include methanol-fueled diesel engines.
6. § 86.096-35 ...	Revise cross-referencing. Revise paragraph (a)(2)(C) to require identification of evaporative family on the label for light-duty trucks.
7. § 86.098-11 ...	Revise paragraph (b)(3) to include methanol-fueled diesel engines.
8. § 86.098-23 ...	Revise paragraph (m) to include methanol-fueled diesel engines.
9. § 86.099-11 ...	Add new section for fully phased-in standards.

For the reasons set out in the preamble, title 40, chapter I, part 86 of the Code of Federal Regulations is amended as set forth below.

PART 86—[CORRECTED]

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, 217, and 301(a), Clean Air Act, as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

Subpart A—[Corrected]

2. Section 86.096-7 is amended by revising paragraph (h)(6)(i) to read as follows:

§ 86.096-7 Maintenance of records; submittal of information; right of entry.

* * * * *

(h)(6) *Voiding a certificate.* (i) EPA may void ab initio a certificate for a vehicle certified to Tier 0 certification standards or to the respective evaporative test procedure and accompanying evaporative standards as set forth or otherwise referenced in §§ 86.090-8, 86.090-9, 86.091-10 or 86.094-11 for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request.

* * * * *

3. Section 86.096–8 is amended by removing the introductory text and revising the heading of paragraph (k) to read as follows:

§ 86.096–8 Emission standards for 1996 and later model year light-duty vehicles.

* * * * *

(k) *Cold Temperature Carbon Monoxide (CO) Standards—Light-Duty Vehicles.* * * *

4. Section 86.096–21 is amended by revising the reference to paragraphs (c) through (g) of § 86.094–21 to read as follows:

§ 86.096–21 Application for certification.

* * * * *

(c) through (i) [Reserved]. For guidance see § 86.094–21.

5. Section 86.096–30 is amended by revising the reference to paragraphs (a)(3)(i) through (a)(4)(ii) introductory text of § 86.095–30 and paragraphs (b) through (e) of § 86.094–30 and by adding paragraph (a)(18) to read as follows:

§ 86.096–30 Certification.

* * * * *

(a)(3)(i) through (a)(4)(iii) introductory text [Reserved]. For guidance see § 86.095–30.

* * * * *

(a)(18) For all heavy-duty vehicles certified to evaporative test procedures and accompanying standards specified under § 86.098–11:

(i) All certificates issued are conditional upon the manufacturer complying with all provisions of § 86.098–11 both during and after model year production.

(ii) Failure to meet the required implementation schedule sales percentages as specified in § 86.098–11 will be considered to be a failure to satisfy the conditions upon which the certificate was issued and the vehicles sold in violation of the implementation schedule shall not be covered by the certificate.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

(b) through (f) [Reserved]. For guidance see § 86.094–30.

6. Section 86.095–35 is amended by revising paragraph (a)(2)(iii)(C) to read as follows:

§ 86.095–35 Labeling.

* * * * *

(a) * * *

(2) * * *

(iii) * * *

(C) Engine displacement (in cubic inches or liters), engine family identification, and evaporative family;

* * * * *

6a. Section 86.096–35 is amended by revising the reference to paragraphs (b) through (h) of 86.095–35 to read as follows:

§ 86.096–35 Labeling.

* * * * *

(b) through (i) [Reserved]. For guidance see § 86.095–35.

7. Section 86.098–11 is amended by revising paragraph (b)(3) and removing paragraph (b)(4) to read as follows:

§ 86.098–11 Emission standards for 1998 and later model year diesel heavy-duty engines and vehicles.

* * * * *

(b) * * *

(3) Evaporative emissions (total of non-oxygenated hydrocarbons plus methanol) from heavy-duty vehicles equipped with methanol-fueled diesel engines shall not exceed the following standards. The standards apply equally to certification and in-use vehicles. The spitback standard also applies to newly assembled vehicles.

(i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.0 grams per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.5 grams per test.

(B) *Running loss test:* 0.05 grams per mile.

(C) *Fuel dispensing spitback test:* 1.0 gram per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.0 grams per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.5 grams per test.

(B) *Running loss test*: 0.05 grams per mile.

(iii)(A) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 lbs, the standards set forth in paragraph (b)(3) of this section refer to a composite sample of evaporative emissions collected under the conditions and measured in accordance with the procedures set forth in subpart M of this part.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 lbs., the standards set forth in paragraph (b)(3)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.091–23(b)(4)(ii)).

(iv) All fuel vapor generated during in-use operations shall be routed exclusively to the evaporative control system (e.g., either canister or engine purge). The only exception to this requirement shall be for emergencies.

(v)(A) At least 90 percent of a manufacturer's sales of 1998 model year heavy-duty vehicles equipped with methanol-fueled diesel engines shall not exceed the standards described in paragraph (b)(3) of this section. The remaining vehicles shall be subject to the standards described in § 86.094–11(b)(3). All 1999 model year and later heavy-duty vehicles equipped with methanol-fueled diesel engines shall not exceed the standards described in paragraph (b)(3) of this section.

(B) Optionally, 90 percent of a manufacturer's combined sales of 1998 model year gasoline- and methanol-fueled light-duty vehicles, light-duty trucks, and heavy-duty vehicles shall not exceed the applicable standards.

(C) Small volume manufacturers, as defined in § 86.092–14(b) (1) and (2), are exempt from the phase-in described in paragraph (b)(3)(v)(A) of this section. For small volume manufacturers, the standards of § 86.094–11(b)(3), and the associated test procedures, apply for the 1998 model year. Beginning in the 1999 model year, 100 percent compliance with the standards of this section is required. This exemption does not apply to small volume engine families as defined in § 86.092–14(b)(5).

* * * * *

8. Section 86.098–23 is amended by revising paragraphs (m)(1), (m)(2)(iv), and (m)(2)(v) to read as follows:

§ 86.098–23 Required data.

* * * * *

(m) * * *

(1) In the application for certification the projected sales volume of evaporative families certifying to the respective evaporative test procedure and accompanying standards as set forth or otherwise referenced in §§ 86.090–8, 86.090–9, 86.091–10 and 86.094–11 or those set forth or otherwise referenced in §§ 86.096–8, 86.096–9, 86.096–10 and 86.098–11. Volume projected to be produced for U.S. sale may be used in lieu of projected U.S. sales.

(2) * * *

(iv) Failure by a manufacturer to submit the end-of-year report within the specified time may result in certificate(s) for the evaporative family(ies) certified to the certification

standards set forth in §§ 86.090–8, 86.090–9, 86.091–10 and 86.094–11 being voided ab initio plus any applicable civil penalties for failure to submit the required information to the Agency.

(v) The information shall be organized in such a way as to allow the Administrator to determine compliance with the Evaporative Emission Testing implementation schedules of §§ 86.096–8, 86.096–9, 86.096–10 and 86.098–11.

* * * * *

9. A new section 86.099–11 is added to subpart A to read as follows:

§ 86.099–11 Emission standards for 1999 and later model year diesel heavy-duty engines and vehicles.

(a) Exhaust emissions from new 1999 and later model year diesel heavy-duty engines shall not exceed the following:

(1)(i) *Hydrocarbons (for petroleum-fueled diesel engines).* 1.3 grams per brake horsepower-hour (0.48 gram per megajoule), as measured under transient operating conditions.

(ii) *Organic Material Hydrocarbon Equivalent (for methanol-fueled diesel engines).* 1.3 grams per brake horsepower-hour (0.48 gram per megajoule), as measured under transient operating conditions.

(2) *Carbon monoxide.* (i) 15.5 grams per brake horsepower-hour (5.77 grams per megajoule), as measured under transient operating conditions.

(ii) 0.50 percent of exhaust gas flow at curb idle (methanol-fueled diesel only).

(3) *Oxides of Nitrogen.* (i) 4.0 grams per brake horsepower-hour (1.49 grams per megajoule), as measured under transient operating conditions.

(ii) A manufacturer may elect to include any or all of its diesel heavy-duty engine families in any or all of the NO_x averaging, trading, or banking programs for heavy-duty engines, within the restrictions described in § 86.094–15. If the manufacturer elects to include engine families in any of these programs, the NO_x FELs may not exceed 5.0 grams per brake horsepower-hour (1.9 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

(4) *Particulate.* (i) For diesel engines to be used in urban buses, 0.05 gram per brake horsepower-hour (0.019 gram per megajoule) for certification testing and selective enforcement audit testing, and 0.07 gram per brake horsepower-hour (0.026 gram per megajoule) for in-use testing, as measured under transient operating conditions.

(ii) For all other diesel engines only, 0.10 gram per brake horsepower-hour (0.037 gram per megajoule), as measured under transient operating conditions.

(iii) A manufacturer may elect to include any or all of its diesel heavy-duty engine families in any or all or the particulate averaging, trading, or banking programs for heavy-duty engines, within the restrictions described in § 86.094–15. If the manufacturer elects to include engine families in any of these programs, the particulate FEL may not exceed:

(A) For engine families intended for use in urban buses, 0.25 gram per brake horsepower-hour (0.093 gram per megajoule);

(B) For engine families *not* intended for use in urban buses, 0.60 gram per brake horsepower-hour (0.22 gram per megajoule). This ceiling value applies whether credits for the family are derived from averaging, trading or banking programs.

(b)(1) The opacity of smoke emission from new 1999 and later model year diesel heavy-duty engine shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in subpart I of this part and measured and calculated in accordance with those procedures.

(3) Evaporative emissions (total of non-oxygenated hydrocarbons plus methanol) from heavy-duty vehicles equipped with methanol-fueled diesel engines shall not exceed the following standards. The standards apply equally to certification and in-use vehicles. The spitback standard also applies to newly assembled vehicles.

(i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.0 grams per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.5 grams per test.

(B) *Running loss test*: 0.05 grams per mile.

(C) *Fuel dispensing spitback test:* 1.0 gram per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.0 grams per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.5 grams per test.

(B) Running loss test: 0.05 grams per mile.

(iii)(A) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 lbs, the standards set forth in paragraph (b)(3) of this section refer to a composite sample of evaporative emissions collected under the conditions and measured in accordance with the procedures set forth in subpart M of this part.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 lbs., the standards set forth in paragraph (b)(3)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.091–23(b)(4)(ii)).

(iv) All fuel vapor generated during in-use operations shall be routed exclusively to the evaporative control system (e.g., either canister or engine purge). The only exception to this requirement shall be for emergencies.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1999 or later model year methanol-fueled diesel, or any naturally-aspirated diesel heavy-duty engine. For petroleum-fueled engines only, this provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in subpart I or N of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b), (c), and (d) of this section.

[FR Doc. 93–14809 Filed 6–25–93; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–46; RM–8187]

Radio Broadcasting Services; American Falls, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 281C1 for Channel 281A at

American Falls, Idaho, and modifies the construction permit for Station KOUU (FM) to specify operation on Channel 281C1, at the request of Dobson, Goss, Rones & Dahl. See 58 FR 15462, March 23, 1993. Channel 281C1 can be allotted to American Falls, Idaho, in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.6 kilometers (2.8 miles) southeast at Station KOUU (FM)'s construction permit site. The site restriction avoids a short-spacing to Station KVEZ (FM), Channel 280A, Smithfield, Utah. The coordinates for Channel 281C1 at American Falls are North Latitude 42–45–24 and West Longitude 112–42–38. With this action, this proceeding is terminated.

DATES: Effective August 6, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93–46, adopted June 7, 1993, and released June 22, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 281A and adding Channel 281C1 at American Falls.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15051 Filed 6–25–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–12; RM–8151]

Radio Broadcasting Services; Galliano and Buras Triumph, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Callais Cablevision, Inc., licensee of Station KLEB–FM, Channel 232C3, Galliano, Louisiana, substitutes Channel 232C2 for Channel 232C3 at Galliano and modifies Station KLEB–FM's license to specify operation on the higher powered channel. To accommodate KLEB–FM's upgrade, the Commission also deletes Channel 231A at Buras Triumph, Louisiana. See 58 FR 15321, March 22, 1993. Channel 232C2 can be allotted in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 232C2 at Galliano are 29–26–00 and 90–17–54. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 6, 1993.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93–12, adopted June 7, 1993, and released June 22, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Buras Triumph, Channel 231A, and by removing Channel 232C3 and adding Channel 232C2 at Galliano.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15050 Filed 6–25–93; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 58, No. 122
Monday, June 28, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AD40

Production and Utilization Facilities; Emergency Planning and Preparedness—Exercise Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise its emergency planning regulations. The proposed rule would update and clarify ambiguities that have surfaced in the implementation of the Commission's emergency planning exercise requirements.

DATES: The comment period expires September 13, 1993. Comments received after this date will be considered if practical to do so, but only those comments received on or before this date can be assured of consideration.

ADDRESSES: Comments may be sent to the Secretary of the Commission, Attention: Docketing and Service Branch, U. S. Nuclear Regulatory Commission, Washington, DC 20555, or may be hand-delivered to One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 am and 4:15 pm Federal workdays. Copies of comments received may be examined at the Commission's Public Document Room at 2120 L Street NW., (Lower Level) Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301-492-3918).

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1980, (45 FR 55402) the NRC published a final rule that revised its emergency planning regulations. The final rule became effective on November 3, 1980. On July 6, 1984 (49 FR 27733), the NRC amended its emergency planning regulations to relax the frequency of participation by State and local governmental authorities in emergency preparedness exercises at nuclear power reactor sites. The amendments were based on the NRC's experience gained in observing and evaluating emergency preparedness exercises since 1980. Further experience has shown that the requirements in 10 CFR part 50, appendix E, section IV.F.3 on full or partial participation by State or local governments in the biennial (offsite) exercise are unnecessarily complicated. Additionally, the Commission believes that the interval for an ingestion exposure pathway exercise should be changed from 5 to 6 years, and that the regulation be deleted that requires all states within the plume exposure pathway emergency planning zone (EPZ) for a given site fully participate in an offsite exercise for that site at least once every 7 years.

The Commission finds that the current regulation has resulted in a relatively complicated description of the requirements for exercise participation by State and local governments who have offsite planning responsibility for more than one nuclear power plant. This proposed rule would simplify and clarify this requirement. In addition, appendix E would be revised to reflect that the interval for an ingestion exposure pathway exercise be changed from at least once every 5 years to at least once every 6 years (FEMA's ingestion pathway exercise requirement is at least once every 6 years). The change in the interval would match the biennial frequency required for exercises of offsite plans. Further, appendix E also would be revised to eliminate the 7 year return frequency requirement because it has proven to be unnecessary to achieve the underlying purpose of the rule as well as being burdensome to states which are within the plume exposure pathway for multiple sites (FEMA does not have a return frequency requirement). Both changes would assure compatibility with FEMA requirements and thus avoid confusion among licensees and State governments. Notwithstanding elimination of the 7 year return frequency requirement, the Commission believes that offsite authorities should rotate their full participation in exercises among sites if they are within the plume exposure pathway for more than one site.

The Commission codified the 7 year return frequency in the July 6, 1984 (49 FR 27733) amendment to the emergency planning regulations. This amendment provides that at least once every 7 years, all states within the plume exposure pathway EPZ of a given site must fully participate in an offsite exercise for that site. In so doing the Commission noted that "the final rule is not totally consistent with FEMA's final regulation (44 CFR part 350). This inconsistency lies in the area of return frequency of multiple-site states as previously discussed. The FEMA position on return frequency is a significant departure from the NRC's proposed regulation of July 21, 1983 (48 FR 33307). The Commission believes that more study is needed before deletion of the return frequency requirement can be justified."

The Commission now believes that sufficient experience has been gained in the observation and evaluation of emergency preparedness exercises at nuclear power reactor sites to conclude that the 7 year return frequency can be deleted.

The Commission has found that multi-site states, when not fully participating in an exercise at a specific site will usually partially participate at a significant level of activity every 2 years at that specific site in order to support the participation of the appropriate local governments. The Commission has found that this level of exercise participation provides adequate emergency response training for State and local governments. Additionally, a provision still exists in the regulation which permits State or local government participation in the licensee's annual exercise. A State or local government may consider its response capability to be less than optimal because of an unusually large personnel turnover or because there have been limited responses to real emergencies in the community. The regulation still requires the licensees to provide for State or local government participation if they indicate such a desire. This proposed revision would not have any adverse impact on public health and safety because State emergency response personnel continuously respond to actual emergencies and experience has

shown that states through a combination of full and partial participation exercises maintain an adequate level of response capability. A formal requirement for a state to return to a specific site every 7 years to participate in an exercise has proven to be unnecessary. This rulemaking would delete that unnecessary, unwarranted and burdensome requirement.

Lastly, the proposed revision would delete past due dates (see section F(2)(a)) because they are now meaningless.

The NRC staff consulted with the FEMA staff during the development of this proposed rule.

Submission of Comments in Electronic Form

Commenters are encouraged to submit, in addition to the original paper copy, a copy of the letter in electronic form on 5.25 or 3.5 inch computer diskette: IBM PC/DOS or MS/DOS format. Data files should be provided in WordPerfect format or unformatted ASCII code. The format and version should be identified on the diskette's external label.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment; and therefore, an environmental impact statement is not required. The proposed rule would update and clarify the emergency planning regulations relating to exercises. It does not involve any modification to any plant or revise the need for or the standards for emergency plans, and there is no adverse effect on the quality of the environment. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW., (Lower Level) Washington, DC 20037. Single copies are available without charge upon written request from NRC Distribution Section, Office of Information Resources Management, USNRC, Washington, DC 20555.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval number 3150–0011.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L St., NW., (Lower Level) Washington, DC 20037. Single copies of the analysis may be obtained from Michael Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492–3918.

Backfit Analysis

This proposed rule would not impose any new requirements on production or utilization facilities. The proposed would delete the requirement that all states within the plume exposure pathway EPZ for a given site fully participate in an offsite exercise for that specific site at least every 7 years. It also relaxes the requirement to perform an ingestion exposure pathway exercise from every 5 years to every 6 years. These changes would permit, but do not require, licensees to change their emergency plans and procedures. Therefore, these changes are not considered backfits as defined in 10 CFR 50.109 (a)(1).

Regulatory Flexibility Act Certification

The proposed rule would not have a significant impact on a substantial number of small entities. The proposed rule would update and clarify ambiguities in the emergency planning regulations relating to exercises. Nuclear power plant licensees do not fall within the definition of small business in section 3 of the Small Business Act, 15 U.S.C. 632, the Small Business Size Standards of the Small Business Administration in 13 CFR Part 121, or the Commission's Size Standards published at 56 FR 56671 (November 6, 1991). Therefore, in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities and that, therefore, a regulatory flexibility analysis need not be prepared.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, reporting and recordkeeping requirements.

For the reasons set out in the preamble, and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54 (dd) and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80, 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Appendix E to part 50 is amended by revising section IV.F. to read as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities.

* * * * *

IV. Content of Emergency Plans

F. Training

1. The program to provide for the training of employees and exercising, by periodic drills, of radiation emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties, and the participation in the training and drills by other persons whose assistance may be needed in the event of a radiation emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

a. Directors and/or coordinators of the plant emergency organization;

b. Personnel responsible for accident assessment, including control room shift personnel;

c. Radiological monitoring teams;

d. Fire control teams (fire brigades);

e. Repair and damage control teams;

f. First aid and rescue teams;

g. Medical support personnel;

h Licensee's headquarters support personnel;

i. Security personnel.

In addition, a radiological orientation training program shall be made available to local services personnel; e.g., local emergency services/Civil Defense, local law enforcement personnel, local news media persons.

2. The plan shall describe provisions for the conduct of emergency preparedness exercises as follows: Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communications networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties.[3]

a. A full participation[4] exercise which tests as much of the licensee, State and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted for each site at which a power reactor is located. This exercise shall be conducted within two years before the issuance of the first operating license for full power (one authorizing operation above 5% of rated power) of the first reactor and shall include participation by each State and local government within the plume exposure pathway EPZ and each state within the ingestion exposure pathway EPZ. If the full participation exercise is conducted more than one year prior to issuance of an operating licensee for full power, an exercise which tests the licensee's onsite emergency plans shall be conducted within one year before issuance of an operating license for full power. This exercise need not have State or local government participation.

b. Each licensee at each site shall annually exercise the onsite emergency plan.

c. Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the plan. Where the offsite authority has a role under a radiological response plan for more then one site it shall fully participate in one exercise every two years and shall, at least, partially participate[5] in other offsite plan exercises, in such period.

d. Each State within any ingestion exposure pathway EPZ shall exercise its plans and preparedness related to ingestion exposure pathway measures at least once every 6 years.

e. Licensees shall enable any State or local government located within the plume exposure pathway EPZ to participate in annual exercises when requested by such State or local government.

f. Remedial exercises will be required if the emergency plan is not satisfactorily tested during the biennial exercise, such that NRC, in consultation with FEMA, cannot find reasonable assurance that adequate protective measures can be taken in the event of a radiological emergency. The extent of State and local participation in remedial exercises must be sufficient to show that appropriate corrective measures have been taken regarding the elements of the plan not properly tested in the previous exercises.

g. All training, including exercises, shall provide for formal critiques in order to identify weak or deficient areas that need correction. Any weaknesses or deficiencies that are identified shall be corrected.

h. The participation of State and local governments in an emergency exercise is not required to the extent that the applicant has identified those governments as refusing to participate further in emergency planning activities, pursuant to 10 CFR 50.47(c)(1). In such cases, an exercise shall be held with the applicant or licensee and such governmental entities as elect to participate in the emergency planning process.

* * * * *

Dated at Rockville, Maryland, this 14th day of June, 1993, For the Nuclear Regulatory Commission.

James M. Taylor

Executive Director for Operations

[FR Doc. 93–15116 Filed 6–25–93; 8:45 am]

BILLING CODE 7590–01–M

[3] Use of site specific simulators or computers is acceptable for any exercise.

[4] "Full participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite local and State authorities and licensee personnel physically and actively take part in testing their integrated capability to adequately assess and respond to an accident at a commercial nuclear power plant. "Full participation" includes testing major observable portions of the onsite and offsite emergency plans and mobilization of state, local and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario.

[5] "Partial participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite authorities shall actively take part in the exercise sufficient to test direction and control functions; i.e., (a) protective action decision making related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee.

DEPARTMENT OF JUSTICE

28 CFR Part 505

[AG Order No. 1753–93]

Costs of Incarceration Fee

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes procedures for the assessment and collection of a fee to cover the costs of incarceration for Federal inmates. This fee, which is to be assessed no more than once for any separate period of confinement, shall be equivalent to the average cost of one year of incarceration. An inmate will be assessed a fee in accordance with his or her ability to pay as determined by application of the Department of Health and Human Services poverty guidelines. No fee is to be collected from an inmate with respect to whom a fine intended to recover costs of incarceration was imposed or waived by a United States District Court. An assessed fee may be waived or reduced in cases of financial hardship. This proposed rule, which implements newly enacted statutory authority on recovering costs of incarceration, is intended to ensure the continued efficient operation of Federal correctional institutions, including the provision of programs to help inmates better themselves.

DATES: Comments due by August 12, 1993.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Department of Justice is proposing to add a new regulation on the Cost of Incarceration Fee. Section 111 of Public Law 102–395 (106 stat. 1842) authorizes the Attorney General to establish and collect from all persons convicted in a United States District Court and committed to the custody of the Attorney General a fee to cover the costs of incarceration.

In the interest of fairness and to insure institution stability, fees will be imposed only on inmates who begin serving their sentence on or after the date on which the regulation becomes effective; inmates already serving terms of imprisonment will not be affected.

Fees will be imposed on inmates based on their total assets above the poverty level (established by the Department of Health and Human Services). Inmates will be assessed a fee equal to their assets above the poverty level up to the average costs to the Bureau of Prisons of confining an inmate for one year. This method will allow inmates to maintain some assets for the care of dependents and to assist re-entry into society.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule will not be a major rule within the meaning

of Executive Order 12291, nor does this rule have federalism implications warranting the preparation of a Federalism Assessment in accordance with section 6 of Executive Order 12612.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received will remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 505

Penalties, Prisoners.

Accordingly, by virtue of the authority vested in the Attorney General by law, including 5 U.S.C. 301, 28 U.S.C. 509 and 510, 31 U.S.C. 3717, and Public Law 102–395 (106 stat. 1842), part 505 of chapter I of title 28 of the Code of Federal Regulations is proposed to be added as follows.

PART 505—COSTS OF INCARCERATION FEE

Sec.

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 31 U.S.C. 3717; Pub. L. 102–395 (106 Stat. 1842).

§ 505.1 Purpose and scope.

This part establishes procedures for the assessment and collection of a fee to recover the costs of incarceration. The provisions of this part apply to any person who is convicted in a United States District Court and committed to the custody of the Attorney General, and who begins service of sentence on or after [THE EFFECTIVE DATE OF THE FINAL RULE]. For purpose of this part, revocation of parole or supervised release shall be treated as a separate period of incarceration for which a fee may be imposed.

§ 505.2 Fee assessment.

(a) The Director of the Bureau of Prisons shall review the amount of the fee not less than annually to determine the cost of incarceration and is authorized to amend paragraph (b) of the this section to reflect the current cost. The new figure shall be published as a notice in the **Federal Register**.

(b) For fiscal year 1993, the fee to cover the costs of incarceration shall be twenty-thousand, eight-hundred and three dollars ($20,803). This figure represents the average cost to the Bureau of Prisons of confining an inmate for one year.

(c) A fee otherwise required by this part may not be collected from an inmate with respect to whom a fine was imposed or waived by a United States District Court pursuant to section 5E1.2 (f) and (i) of the United States Sentencing Guidelines or any successor provisions.

(d) For any inmate committed to the custody of the Attorney General for a period of less than 334 days (including pretrial custody time), the maximum fee to be imposed shall be computed by prorating on a monthly basis the average cost for one year of confinement.

(e) Bureau of Prisons Unit Team staff shall be responsible for computing the amount of the fee to be paid by each inmate.

(1) Unit Team staff shall rely exclusively on the information contained in the Presentence Investigation Report and findings and orders of the sentencing court in order to determine the extent of an inmate's assets, liabilities and dependents.

(2) The fee shall be assessed in accordance with the following formula: If an inmate's assets are equal to or less than the poverty level, as established by the United States Department of Health and Human Services and published annually in the **Federal Register**, no fee is to be imposed. If an inmate's assets are above the poverty level, Unit Team staff shall impose a fee equal to the inmate's assets above the poverty level up to the average cost to the Bureau of Prisons of confining an inmate for one year.

(f) The Warden may reduce or waive the fee if the person under confinement establishes that (1) he or she is not able and, even with the use of a reasonable installment schedule, is not likely to become able to pay all or part of the fee, or (2) imposition of a fine would unduly burden the defendant's dependants.

§ 595.3 Payment.

Fees imposed pursuant to this part are due and payable 15 days after notice of the Unit Team actions. Fees shall be included in the Inmate Financial Responsibility Program under the category "other federal government obligations", and shall be paid before other financial obligations included in that same category. Fees not paid within 15 days may also result in interest charges.

§ 595.4 Appeal.

An inmate may appeal the Warden's decision not to grant a waiver or the Unit Team's calculation through the Administrative Remedy Procedure (see part 542 of this chapter) and may submit information to demonstrate substantial hardship.

§ 505.5 Final disposition.

Before the inmate completes his or her sentence, Unit Team staff shall review the status of the inmate's fee and refer any unpaid amount to the United States Attorney's Office for collection.

Dated: June 18, 1993.

Janet Reno,

Attorney General.

[FR Doc. 93–15056 Filed 5–25–93; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 0

Ethics and Conduct of Department of Labor Employees

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor proposes to issue a rule which repeals, effective February 3, 1993, most of the regulatory provisions relating to "Ethics and Conduct of Department of Labor Employees." Certain additional provisions are repealed, effective October 5, 1992.

The regulatory provisions which the proposed rule would repeal have been superseded by a final rule, "Standards of Ethical Conduct for Employees of the Executive Branch," issued by the Office of Government Ethics. This rule was effective February 3, 1993 and published at 57 FR 35006–35067 (August 7, 1992). Other regulatory provisions have superseded by an interim rule entitled "Executive Branch Financial Disclosure, Qualified Trusts, And Certificates of Divestiture," issued by the Office of Government Ethics. This rule was effective October 5, 1992 and was initially published at 57 FR 11800–11830 (April 7, 1992).

The proposed rule continues in effect those provisions which require clearance of certain outside employment, business, professional, or other such activities. It preserves additional instructions or other issuances which restrict the holding of specific financial interests or require the clearance of outside employment or other such activities. The proposed rule

also continues in effect a regulatory waiver under the conflict of interest laws which permits Department of Labor employees to engage in official activities affecting certain financial interests in insurance companies, mutual funds, investment companies or banks, even though engaging in such activities would otherwise be prohibited by law.

DATES: Comments by agencies and the public are invited and are due by July 28, 1993.

ADDRESSES: Send comments to Mr. Robert Shapiro, Department of Labor, room N–2428, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Robert Shapiro, Office of the Solicitor, telephone (202/FTS) 523–8201, FAX (202/FTS) 219–6896.

SUPPLEMENTARY INFORMATION: On April 7, 1992, the Office of Government Ethics (OGE) published an interim rule, 5 CFR part 2634, establishing a new confidential financial disclosure reporting system for executive branch departments and agencies, effective October 5, 1992 (57 FR 11800–11830). The new confidential financial reporting system supersedes 5 CFR 735.106, all of subpart D of part 735 of 5 CFR, and all implementing agency regulations thereunder, including subpart E of 29 CFR part 0.

On August 7, 1992, the Office of Government Ethics (OGE published a final rule to establish, effective February 3, 1993, uniform standards of ethical conduct for all employees of the executive branch (57 FR 35006–35067). This OGE rule is intended to carry out, among other provisions, the mandate of section 201 of Executive Order 12674 of April 12, 1989, as modified by E.O. 12731, which directs the Office of Government Ethics to establish a single, comprehensive and clear set of executive-branch standards of conduct that shall be objective, reasonable, and enforceable. The final OGE rule is codified at 5 CFR part 2635. It supersedes most of the OGE's model ethics and conduct regulations found at subparts A, B, and C of 5 CFR part 735 and agency ethics regulations issued thereunder including subparts A–D the Department of Labor ethics and conduct regulations (29 CFR part 0).

On November 30, 1992, the Office of Personnel Management (OPM) reissued uniform standards of conduct regulations relating to gambling, conduct prejudicial to the Government, and the special preparation of persons for civil service and foreign service examinations. This OPM action will preserve the executive branch-wide applicability of certain provisions which are not included in the OGE regulations at part 2635.

The Department of Labor proposed rule revokes the superseded provisions of subparts A through D of the Department of Labor ethics and conduct regulations, effective February 3, 1993, and revokes subpart E, effective October 5, 1992. It proposes, however, to permit certain Department of Labor regulations, instructions, and issuances to remain in effect for a limited period. The limited continuation of these provisions is consistent with part 2635. If the Department of Labor determines that a further continuation of some of these provisions is appropriate, it may, with the approval of the OGE, include them in a supplemental agency regulation. Section 2635.105 of the OGE rule provides that in addition to the OGE standards of conduct contained in part 2635 an agency may issue, jointly with OGE, supplemental agency regulations with which the OGE has concurred (57 FR 35043–35044).

The Department of Labor proposed rule would not disturb the continued effectiveness of current regulations, instructions, and issuances of the Department of Labor, including its constituent agencies, restricting the acquisition or holding of certain financial interests. Retention of these requirements is in accordance with the Note at § 2635.403(a) of the OGE regulations (57 FR 35053). This Note provides that for one year after the effective date of part 2635 or until the issuance of an agency supplemental regulation, whichever occurs first, any prohibition on acquiring a specific financial interest contained in an agency regulation, instruction or other issuance in effect prior to the effective date of part 2635 shall be treated as an agency supplemental regulation. Section 2635.403(a) provides that supplemental agency regulations may include restrictions on the acquisition or holding of a financial interest or a class of interests by agency employees and certain family members.

The proposed rule also would not disturb the continued effectiveness of existing Department-wide and agency regulations, instructions, or other issuances requiring prior approval of outside employment or activities. The Note to § 2635.803 (57 FR 35062) provides, as in the case of restrictions on financial interests, that these prior approval requirements will be regarded as agency supplemental regulations for a time period described identically to that set forth in § 2635.403.

Finally, the proposed rule would not affect the current regulatory waiver issued by the Department of Labor under the authority of title 18 U.S.C. 208(b)(2). This waiver is found in the Department of Labor ethics regulations at 29 CFR 0.735–12(c). It permits Department of Labor employees to engage in official activities affecting certain financial interests in insurance companies, mutual finds, investment companies or banks, even though engaging in such activities would otherwise be prohibited by 18 U.S.C. 208(a). It is likely that the Department of Labor waiver provided in 29 CFR 0.735–12(c) will eventually be superseded by OGE action. Section 2635.401(d)(1) provides that pending the issuance of superseding regulatory waivers by OGE, agency regulatory waivers issued prior to November 30, 1989 continue to apply.

Executive Order 12291, Federal Regulation

As Secretary of Labor, I have determined that this proposed rule is a regulation related to agency organization, management or personnel, as provided in section 1(a)(3) of Executive Order 12291. Moreover, its effects do not meet the test for a "major rule" as defined in section 1(b) of the Executive Order.

Regulatory Flexibility Act

As Secretary of Labor, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have significant economic impact on a substantial number of small entities because it affects only Federal employees.

Paperwork Reduction Act

As secretary of Labor, I have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget thereunder.

List of Subjects in 29 CFR Part 0

Conflicts of interest; Government employees and former employees.

Accordingly, for the reasons set out in the preamble, 29 CFR part 0 is proposed to be amended as follows:

PART 0—ETHICS AND CONDUCT OF DEPARTMENT OF LABOR EMPLOYEES

1. The authority citation for part 0 is revised to read as follows:

Authority: E.O. 11222; 1964–1965 Comp., p. 306; 5 CFR part 735; 18 U.S.C. 201–209; 5 CFR part 737 (48 FR 11944, Mar. 22, 1983);

5 U.S.C. 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR 1990 Comp., p. 306; 5 CFR part 2634; and 5 CFR part 2635.

2. Part 0 is amended by removing and reserving subparts A, B, D, and E.

3. Part 0, subpart C is amended by removing and reserving § 0.735–11 and by removing and reserving the introductory text, and paragraphs (a), (b), and (d) in § 0.735–12.

4. Section 0.735–13 is amended by revising the section heading to read as follows and by adding a new paragraph (d) at the end of the section to read as follows:

§ 0.735–13 Financial interests and clearance of outside activities.

* * * * *

(d) In accordance with the Note to 5 CFR 2635.403(a) and the Note to 5 CFR 2635.803, any requirement for prior approval of employment or activities and any prohibition on acquiring or holding a specific financial interest contained in an agency, regulation, instruction, or other issuance which is in effect prior to February 3, 1993 shall remain effective for one year after February 3, 1993 or until issuance of an agency supplemental regulation under part 2635, whichever occurs first. Issuances which are the subject of this paragraph shall include regulations, instructions, or other issuances by the Department of Labor and any agencies within the Department of Labor.

Signed at Washington, DC, this 22 day of June 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93–15099 Filed 6–25–93; 8:45 am]

BILLING CODE 4510–23–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 93–3]

Cable and Satellite Carrier Royalty Refunds

AGENCY: Copyright Office; Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued to inform the public that the Copyright Office of the Library of Congress proposes to amend its regulations with respect to refunds of overpaid royalties made pursuant to the cable compulsory and satellite carrier statutory licenses, 17 U.S.C. § 111 and § 119, respectively. The Office also proposes changing its policy with respect to the administrative accounting and handling of royalties designated for refunds from individual accounting periods.

EFFECTIVE DATE: Comments should be received on or before July 28, 1993.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail, to: Library of Congress, Department 100, Washington, DC 20540. If delivered by hand, copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM–407, 101 Independence Avenue, SE., Washington, DC 20559.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 707–8380.

SUPPLEMENTARY INFORMATION:

1. Background

Section 111 of title 17, the Copyright Act of 1976, establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works contained on broadcast television signals. Cable systems seeking to avail themselves of the compulsory license must deposit statements of account and royalty fees with the Copyright Office on a biannual basis. Congress also created a similar statutory license for satellite carriers in section 119 of title 17, the Satellite Home Viewer Act of 1988, for retransmission of broadcast signals to home satellite dish owners for private home viewing.

While both section 111 and section 119 require the deposit of royalty fees, neither section makes provision for the refund of monies submitted by cable systems and satellite carriers in excess of their statutory obligation. At the request of interested parties, the Copyright Office initially addressed this situation in the context of section 111 and adopted formal regulations. 45 FR 45270 (1980). The Office noted that refunds of excessive royalty sums could be made in either of two ways: through the ordinary course of examination of a statement of account by the Copyright Office and discovery of an obvious error on the face of the statement; or at the discovery of an error by a cable operator and subsequent timely request for a refund. *Id.*

With respect to cable refund requests, the Office promulgated a regulation specifying the method and requirements. 37 CFR 201.17(j)(3). The regulation provides in pertinent part:

> The request must be in writing, must clearly identify its purpose, and, in the case of a request for a refund, must be received in the Copyright Office before the expiration of 60 days from the last day of the applicable Statement of Account filing period, as provided for in paragraph (c)(1) of this section,* * *. A request made by telephone or by telegraphic or similar unsigned communication, will be considered to meet this requirement if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 60 day period, and if a written request meeting all the conditions of this paragraph (j)(3) is also received in the Copyright Office within 14 days after the end of such 60 day period.

Section 201.17(j)(3)(i).

The Copyright Office cited several reasons in support of the short and strict time limit on requests for refunds:

> To enable the Copyright Office to fulfill its statutory obligation promptly to transfer royalty payments to the Treasury for investment in interest-bearing securities; to provide detailed accounting to the Copyright Royalty Tribunal; to assure that copyright owners will derive the intended benefits of prompt transfers and investment; and to prevent the Copyright Royalty Tribunal from being hampered in distributing the accumulated fees and interest to copyright owners.

45 FR at 45273 (1980) (quoting the Notice of Proposed Rulemaking, 44 FR 73123, 73125 (1979)).

Shortly after the passage of the Satellite Home Viewer Act of 1988, the Copyright Office adopted formal implementing regulations. 54 FR 27873 (1989). The language governing refunds made pursuant to examination and request mirrors § 201.17, except that in the case of refund requests, they must be made within 30 days of the close of an account filing period, as opposed to the 60 day cable rule. In support of the 30 day deadline, the Office stated:

> The modest information required by the satellite carrier statement of account form and the straight-forward method of calculating the royalties should mean that refund requests are infrequent. Satellite carriers should make fewer errors compared to cable systems and the review of the statements of account should take less time. The Office would compare the satellite carrier filing requirements to those relating to the jukebox compulsory license, for which a 30 day refund period has been found reasonable.

54 FR at 27874 (1989).

Both the cable and satellite carrier refund regulations have generally served well the interests of copyright owners, cable operators and the Copyright Office in the years since their adoption.

However, a number of policy issues have arisen regarding refunds. The Office considers it appropriate to deal with the matter of periodic rollover of royalties that accumulate following distribution of the bulk of the royalties by the Copyright Royalty Tribunal.

As noted above, several underlying policy reasons motivated the original adoption of the refund rule in 1980. The general aim, however, was to fashion a rule that would not substantially interfere with the royalty distribution process designed by Congress so as to assure that copyright owners received the full value of monies collected as quickly and efficiently as possible. While some of the circumstances surrounding the technical operation of the refund regulation may have changed in the intervening years, the Office believes that the announced policies remain fundamentally sound. It is with this principle firmly in mind that the Office now addresses some new challenges facing its refund rules for the cable and satellite carrier licenses.

2. Refunds for Amended Filings

Section 201.17(j)(3)(i), applicable to the cable license, and 201.11(g)(3)(i), applicable to the satellite carrier license, commence the 60 and 30 day time periods, respectively, within which to request a refund from the "last day of the applicable Statement of Account filing period." Thus, for example, in the case of the cable license for calendar year 1992, requests for refunds for the first accounting period were due at the Office no later than October 28, 1992, and requests for the second accounting period of 1992 were due no later than April 30, 1993.

In accordance with strict adherence to its refund policy, the Copyright Office has marked the commencement of 30 and 60 day refund request periods from the "last day of the applicable Statement of Account filing period." The Office, however, has experienced certain situations with amended filings which may require a refund request period not marked from the last day of the accounting period.

For example, a cable statement of account from Operator X for the first accounting period of 1992 gives Operator X 60 days from August 29, 1992, or October 28, 1992, in which to request a refund. Suppose, however, that Operator X amends its statement of account on November 15, 1992 to correct for an error it discovers, which would not be revealed in the ordinary course of the Copyright Office's examination of the statement of account, and submits an additional royalty payment. Or, perhaps Operator X has missed the August 29 filing date altogether and is filing for the first time, or is responding to a Copyright Office discovery of an error and is submitting an additional royalty payment. [1] In either of these situations, Operator X is prohibited from requesting a refund on any monies submitted on November 15, even if it discovers an error in calculation (exclusive of obvious errors discovered by the Office during examination) on the same day.

The Copyright Office acknowledges the potential for inequality created by the current refund regulations' reliance on the last day of the accounting period as the triggering date, particularly where an overpayment is made accidentally in response to an Office inquiry. The Office, therefore, proposes to amend sections 201.17(j)(3)(i) and 201.11(g)(3)(i) by deleting the phrase "last day of the applicable Statement of Account filing period" and the sectional references to such days in both sections and replacing them with "date of receipt at the Copyright Office of the royalty payment that is the subject of the request."

3. Clear Basis for Refund

The question has arisen about the substantive standards, if any, for granting a refund request.

Both §§ 201.17(j)(3) and 201.11(g)(3) establish the technical format for a refund request. A request must be "in writing, must clearly identify its purpose," and must be received within the prescribed time limit. The request must clearly identify the applicable Statement of Account, contain "a clear statement of the facts on which it is based," identify the error and provide corrected information, and be accompanied by an affidavit from a corporate officer explaining why the royalty was miscalculated, and a proper filing and processing fee. These requirements are, for the most part, procedural in nature, and the question remains as to the substantive requirements necessary to the grant of a refund.

Several cable operators have in the past taken the position that refunds are a matter of right: if the operator wishes to amend the information on its Statement of Account, for whatever reason, it may do so and require a refund of royalties consistent with the new information (so long as the request is made within the 60 day time period). This situation is particularly acute in situations where the Copyright Office has not adopted or announced a formal position with respect to certain filing procedures.

For example, the Office currently does not have a formal position regarding application of the 3.75% rate in the case of partially permitted/partially nonpermitted distant signals. A partially permitted/partially nonpermitted distant signal scenario involves a distant broadcast station which was not permitted to be carried by the cable operator in certain communities under the FCC's former carriage rules, and hence subject to the costly 3.75% of gross receipts royalty charge, and permitted in the other communities served by the cable operator, and thus subject to the less expensive base rate for distant signals. The Office has not yet stated a formal position as to whether the cable operator must pay 3.75% for the entire signal, the base rate for the entire signal, or may pro-rate based on subscriber groups located within and without the permitted area. Some cable operators have maintained that if they initially pay 3.75% for the entire signal, and then amend their statement within the 60 day period to reflect payment either at the base rate or pro-rated, they are entitled to a refund as a matter of right.

The Copyright Office has long maintained that refund "requests" are just that; they are "requests" which may be granted by the Office and are not due as a matter of ordinary administrative course. Neither section 111 nor section 119 make any provision for refunds, and there is no statutory right requiring the return of any royalties submitted to the Copyright Office. The Copyright Office adopted refund regulations in accordance with its rulemaking authority for purposes of administering the compulsory license. See 45 FR 45270 (1980)(cable license); 54 FR 27873 (1989)(satellite carrier license); *see also, Cablevision Systems Development Company v. Motion Picture Association of America, Inc.*, 836 F.2d 599 (D.C. Cir.), *cert. denied*, 487 U.S. 1235 (1987). Refunds are not a matter of right, nor are they made in ordinary due course or as a simple ministerial function. Requests must comply in all respects with the refund regulations applicable to the cable and satellite licenses.

By administrative practice, the Copyright Office has long interpreted its refund regulation to deny a request for a refund where there has been no clear overpayment of the statutory royalty. We now propose to confirm this administrative practice by adding explicit regulatory text.

[1] All royalty payments made after August 31 would require assessment of interest for the late time period. *See* 37 CFR § 201.17(i) and 201.11(h).

The Office proposes to amend both section 201.17(j)(3)(iii) and 201.11(g)(3)(iii) by requiring that refund requests must, in addition to "a clear statement of facts," provide for a "clear basis" upon which requests can be granted. A "clear basis" is one which has a direct foundation either in the statute or a Copyright Office decision or policy. Thus, in the partially permitted/partially nonpermitted scenario described above, no refund would be made if the cable operator changed its payment from 3.75% to base rate or prorated since there is no "clear basis" either in the statute, or an articulated Copyright Office policy or practice on which a refund could be granted. When the Copyright Office has not affirmatively taken a position with respect to a particular royalty filing and payment practice and the statute does not directly address the issue, no refund will be made. This is consistent with the Copyright Act, which makes no express provision for refunds, and the Office's goal of making refunds to prevent inequitable consequences arising from bona fide payment errors. 45 FR 45270 (1980).

4. The Royalty Pool

The Copyright Office has had a longstanding policy of making refunds only from the calendar year account in which the overpayment was made. A calendar year account consists of royalties collected for the two accounting periods January-June and July-December. This policy has necessitated that the Office reserve a certain portion of the total royalty pool for every calendar year account, thereby preventing the Copyright Royalty Tribunal from distributing that amount, in anticipation of making refunds. The Office is now reconsidering its practice of matching refunds to royalties collected during their respective accounting year in favor of a more flexible approach.

In keeping with generally accepted accounting principles and to preserve the autonomy of royalty pools, the Copyright Office has refunded money only from the calendar year account to which the refund applies. Thus, for example, if the Copyright Office examined a statement of account form in September of 1992 for either accounting period of 1991 and discovered an overpayment, it would refund the amount of overpayment from the 1991 royalty account. The practice of making a refund from monies collected during the calendar year account to which the refund applies comports with general rules of accounting accepted by the Library of Congress, and aids in determining the total royalties collected for each accounting period.

The practice is not, however, without its difficulties. In order to account for the possibility of refunds, the Copyright Office is required to create a reserve by withholding royalty sums from the distribution process conducted by the Copyright Royalty Tribunal. Thus, for each accounting period, the Copyright Office must approximate how much money will be needed to satisfy refunds, and withhold that amount from the year's total royalties available for distribution. The need for a "refund pool" is not obviated by the expiration of the refund request period, since refunds are often made through the Copyright Office examination process. [2]

Difficulties arise in calculating how much of the royalty pool for a given accounting period should be reserved, particularly when a potential for refunds exists even years later. This problem is exacerbated by the Copyright Office's recent decision that MMDS operators and satellite carriers are not eligible for section 111 compulsory licensing. 57 FR 3284 (1992). The regulation, with an effective date of January 1, 1994, provides that any MMDS operators or satellite carriers who have filed statements of account and paid royalties under section 111 for any accounting period may request a full refund. Although many operators and carriers may not opt for a refund in favor of the precedential value of having made a good faith effort in securing the section 111 license and satisfying the copyright laws for carriage that occurred before the effective date of the regulation, the potential exists for large refund sums from prior accounting periods. In the case of the recently enacted Audio Home Recording Act, Congress recognized this copyright policy issue and provided a statutory solution. The Act explicitly gives the Register the regulatory authority to close out royalty accounts every four years and rollover the balance to the succeeding calendar year account. The Copyright Office finds that this explicit authority confirms regulatory authority that can be implied to exist with respect to the cable and satellite carrier licenses in the interest of fair and equitable administration of those licenses.

In order to eliminate the withholding guessing game and the potential for exhausted "refund pools," the Copyright Office is proposing to amend its regulations to provide a "closeout" procedure whereby accounting periods would, in the discretion of the Register of Copyrights, be closed out after four years, and any refund applicable to a closed out accounting period would be made from more current funds. The regulation would adopt language from section 1005 of the Audio Home Recording Act of 1992, Public Law No. 102-563, which provides that:

> The Register may, in the Register's discretion, 4 years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.

The regulation would therefore have a "close out" feature, eliminating the need to maintain funds in all previous accounts, and a "rollover" feature that would allow refunds to be made from royalties collected for more current accounting periods. The Copyright Office believes that this procedure will be more efficient and manageable from an accounting standpoint, as well as allow for faster distribution of a greater percentage of the royalty pool to copyright owners. Cable and satellite carrier licensees will benefit from the assurance that their proper refund requests can be satisfied. Copyright owners will benefit because the Office can adopt lower reserves to provide for refunds, and therefore more money is available for earliest distribution.

Regulatory Flexibility Act Statement

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress, which is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, of U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are

[2] The need for funds for refunds also does not end with the completion of examination of statement of accounts for the most recent accounting periods. It is often the case that amended or original filings are made long after their applicable accounting period, and refunds from examination may still be made. Thus, for example, a cable operator who did not file any statement or pay any royalties for the first accounting period of 1985 may finally do so in 1992. The Office would examine the statement, and, if it found an obvious error resulting in an overpayment, would make a refund from the 1985/1 royalty pool.

agencies as defined in the Administrative Procedure Act. [3]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights had determined and hereby certifies that this regulation will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Cable systems; satellite carriers; cable compulsory license; satellite carrier statutory license.

Proposed Regulation

In consideration of the foregoing, it is proposed that part 201 of 37 CFR Chapter II be amended to read as set forth below.

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 would be revised to read as follows:

Authority: Sec. 702, 90 Stat. 2541, 17 U.S.C. § 702. § 201.6 is also issued under 17 U.S.C. 708; § 201.7 is also issued under 17 U.S.C. 408, 409 and 410; § 201.11 is also issued under 17 U.S.C. 119; § 201.16 is also issued under 17 U.S.C. 116; § 201.17 is also issued under 17 U.S.C. 111; § 201.19 is also issued under 17 U.S.C. 115; and § 201.24 is also issued under Public Law 101–650; 104 Stat. 5089, 5134;

2. In section 201.11, paragraph (c)(4) is added and the first sentences of paragraphs (g)(3)(i) and (g)(3)(iii) are revised to read as follows:

§ 201.11 Satellite Carrier Statement of Account Covering Statutory Licenses for Secondary Transmissions for Private Home Viewing.

* * * * *

(c) * * *

(4) The Register may, in the Register's discretion, 4 years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.

* * * * *

(g) * * *

(3) * * *

(i) The request must be in writing, must clearly identify its purpose, and, in the case of a request for a refund, must be received in the Copyright Office before the expiration of 30 days from the last day of the applicable Statement of Account filing period, or before the expiration of 30 days from the date of receipt at the Copyright Office of the royalty payment that is the subject of the request, whichever time period is longer.

* * * * *

(iii) The request must contain a clear statement of the facts on which it is based and provide a clear basis on which a refund may be granted, in accordance with the following procedures:

* * * * *

3. In section 201.17, paragraph (c)(4) is added and the first sentences of paragraphs (j)(3)(i) and (j)(3)(iii) are revised to read as follows:

§ 201.17 Statements of Account Covering Compulsory Licenses for Secondary Transmissions by Cable Systems.

* * * * *

(c) * * *

(4) The Register may, in the Register's discretion, 4 years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.

* * * * *

(j) * * *

(3) * * *

(i) The request must be in writing, must clearly identify its purpose, and, in the case of a request for a refund, must be received in the Copyright Office before the expiration of 60 days from the last day of the applicable Statement of Account filing period, or before the expiration of 60 days from the date of receipt at the Copyright Office of the royalty payment that is the subject of the request, which ever time period is longer.

* * * * *

(iii) The request must contain a clear statement of the facts on which it is based and provide a clear basis on which a refund may be granted, in accordance with the following procedures:

* * * * *

Dated: June 10, 1993.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 93-15107 Filed 6-25-93;8:45am]

BILLING CODE 1410-08-F

[3] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title (17)," except with respect to the making of copies of copyright deposits (17 U.S.C. 706(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 21–1–5949; FRL–4671–6]

Federal Contingency Procedures for the Maricopa County, Arizona Carbon Monoxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is finding that the Maricopa County (Phoenix), Arizona, carbon monoxide (CO) nonattainment area has violated the CO national ambient air quality standard after December 31, 1991, the projected attainment date in the 1991 Arizona Federal Implementation Plan (FIP). This violation triggers the contingency procedures in the Arizona FIP. In compliance with those procedures, EPA is proposing to find that the implementation plan is inadequate and that additional control measures are necessary to attain and maintain the CO NAAQS. Also in compliance with those procedures, EPA is proposing two lists of highway projects, some of which will be delayed while EPA promulgates any necessary additional control measures.

DATES: Written comments on this proposal must be submitted to EPA at the address below by July 28, 1993.

ADDRESSES: Comments on this proposal should be sent to: Julia Barrow, FIP Team (A–2–5), Air and Toxics Division, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105.

The rulemaking docket for this notice, Docket No. 93–AZ–MA 1, may be inspected at the above location between 8 a.m. and 4:30 p.m. on weekdays. A reasonable fee may be charged for copying parts of the docket.

Copies of the docket are also available at the State and local offices listed below:

Arizona Department of Environmental Quality, Library, 3033 North Central Avenue, Phoenix, Arizona 85012.

Maricopa Association of Governments, 1820 West Washington, Phoenix, Arizona 85007.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Mobile Sources Section (A–2–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1225.

SUPPLEMENTARY INFORMATION:

I. The Federal Contingency Process for Maricopa

On February 11, 1991, EPA disapproved under the Clean Air Act (CAA) portions of the Arizona State Implementation Plan (SIP) and promulgated a limited federal implementation plan (FIP) for the Maricopa County, Arizona, carbon monoxide (CO) nonattainment area. EPA disapproved portions of the SIP and promulgated the FIP in response to an order of the Ninth Circuit Court of Appeals in *Delaney* v. *EPA*, 898 F.2d 687 (9th Cir. 1990). For a discussion of *Delaney* and the FIP, please see the notice of proposed rulemaking (NPRM) for the FIP, 55 FR 41204 (October 10, 1990) and the notice of final rulemaking for the FIP, 56 FR 5458 (February 11, 1991).[1]

The *Delaney* order required EPA to promulgate, as part of the FIP, a two-part contingency procedure consistent with the Agency's 1982 SIP guidance found at 46 FR 7187, 7192 (January 22, 1981).[2] These two parts are a list of transportation projects that would be delayed while an inadequate SIP is being revised and a process to adopt measures to compensate for unanticipated emission reduction shortfalls. Under the 1982 SIP guidance both parts are triggered when the EPA Administrator determines that a SIP is inadequate and additional emission reductions are necessary.

For reasons discussed in the FIP NPRM, the Agency decided to use a verified violation of the CO national ambient air quality standard (NAAQS) occurring after December 31, 1991 as the initial trigger for its contingency process. December 31, 1991 was the projected date for attainment in the FIP. A verified violation not caused by an exceptional event (as defined by EPA guidelines) requires a determination by the Agency of whether additional control measures are necessary to assure maintenance of the CO standard. Upon a final finding by the Agency that additional measures are necessary, the process to identify, propose, and promulgate additional measures as well as the delay of highway projects are triggered. Under the FIP contingency process, the Agency has approximately ten months from the final finding to propose and promulgate additional measures (six months to propose and four months to finalize). A detailed discussion of the entire contingency process is given in the February, 1991, FIP rulemaking.

II. 1992 CO Violations in Maricopa

Once the FIP contingency process is triggered by a violation of the CO NAAQS after December 31, 1991, the first step in the process requires EPA to make a formal finding that the Maricopa area has violated the CO NAAQS after December 31, 1991 and, therefore, the implementation plan may be inadequate. Under the definition of the CO NAAQS (40 CFR 50.8), the first time in a calender year that ambient CO concentrations exceeds the 9 ppm standard[3] at a monitor is considered an exceedence; the second and all subsequent times during the same calender year that ambient concentrations exceed the standard at the same monitor are considered violations of the NAAQS.

On December 11, 1992, the Maricopa area recorded a violation of the CO standard at the 27th Avenue/Thomas Road/Grand Avenue air quality monitor. The area recorded another violation at the same monitor on December 24. In total, the area recorded five exceedences (2 of which were also violations) of the CO standard in 1992. These exceedences are listed in Table 1.

TABLE 1—CO EXCEEDENCES IN THE MARICOPA NONATTAINMENT AREA 1992

Date	Value (ppm)	Monitor location
Dec. 2	10.1	West Indian School.
Dec. 2	9.5	27th/Thomas/Grand.
Dec. 3	9.6	N. 7th Avenue.
Dec. 11	**9.8**	**27th/Thomas/Grand.**
Dec. 24	**9.7**	**27th/Thomas/Grand.**

Violations in bold.

All data documenting the exceedences have been quality assured and verified as not being caused by an exceptional event.

Based on this monitoring data, EPA today is finding that the Maricopa nonattainment area has violated the CO NAAQS after December 31, 1991 and is also proposing to find that the implementation plan is inadequate.

III. Determining the Cause of the Violation

The second step in the FIP contingency process requires EPA to determine the cause of the violations by determining the implementation status of the plan control strategy and by comparing the current emissions inventory to plan projections. Under the FIP, if incomplete implementation or non-implementation of plan measures or unanticipated growth have increased emissions above the level needed to maintain the CO standard, the Agency would proceed to determine whether additional control measures are necessary to lower those emissions. If emission levels are found to be at or below those projected as needed for maintenance, the Agency would first perform the additional air quality modeling necessary to determine whether additional control measures are necessary.

However, notwithstanding the actual causes of the December 1992 violations, EPA determined that updated air quality modeling was necessary before it could decide whether additional control measures were necessary for maintenance in the area. This determination was based on the type of modeling used in the 1991 FIP attainment demonstration, the release in 1992 of an updated version of EPA's mobile source emissions model, and new information on the contribution of

[1] The Arizona FIP currently contains only contingency and conformity provisions for the Maricopa County and Pima County CO nonattainment areas. All control measures for both areas are contained in the SIP. See the final notice restoring and approving SIP measures, 56 FR 3219 (January 29, 1991) and the final notice approving two Maricopa measures and withdrawing the equivalent FIP measures, 57 FR 8268 (March 9, 1992).

The State of Arizona has submitted a contingency procedure and measure for the Maricopa area which EPA believes can be substituted for the overall FIP contingency process. EPA will shortly be proposing approval of the State submittal and withdrawal of the FIP process for the Maricopa Area. However, until the FIP process is withdrawn, the Agency is obligated to comply with its terms.

[2] The Clean Air Act Amendments of 1990 require SIPs in general "to provide for the implementation of specific measures to be undertaken if an area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under [Part D (nonattainment area provisions)] * * * [s]uch measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator." See section 172(c)(9). This requirement is substantially different from EPA's pre-amendment policy for contingency procedures. Both because of the timing of FIP rulemaking (the proposal was published prior to the passage of the amendments) and because the Ninth Circuit specifically cited EPA's pre-amendment contingency requirements as the missing element in the Arizona SIPs, EPA promulgated contingency procedures which comply with its pre-amendment policy. Arizona remains obligated to submit contingency provisions consistent with the amended Act by November 15, 1993.

[3] Due to EPA's rounding criteria, any recorded CO concentration less than 9.5 ppm is not considered an exceedence.

off-road mobile sources to the overall CO inventory in Maricopa County.

EPA has reviewed the implementation status of control measures in the SIP and compared current vehicle miles traveled projections with those used in the FIP. This information is briefly discussed below and is contained in the Technical Support Document for this rulemaking.

In the 1991 FIP, the attainment demonstration was based on a modified rollback analysis using EPA's mobile source emissions model, MOBILE4, and region-wide vehicle miles traveled (VMT) and speed data provided by the Arizona Department of Environmental Quality in 1990.[4] EPA's preferred air quality model for areas with region-wide CO problems (such as Maricopa's) is the urban airshed model (UAM). UAM is preferred because it allows the use of area-specific meteorological inputs and the use of spatially-distributed emission inventories. Because of the short promulgation schedule imposed by the *Delaney* order, EPA could not perform UAM modeling for the 1991 FIP.

In 1992, EPA released a new mobile source emissions model, MOBILE5, which replaces the model used in the FIP, MOBILE4. In late March 1993, a corrected version of MOBILE5, MOBILE5a was released. Under Agency policy, the latest available mobile source model should be used in any new reasonable further progress or attainment demonstrations (see *Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources,* EPA–450/4–81–026d (Revised), 1992). A determination of whether additional controls are necessary for the Maricopa area is equivalent to developing a new attainment demonstration for the area, and therefore the determination should be based on MOBILE5a. Because of changes internal to the model, mobile source inventories generated from MOBILE5a cannot be compared to those generated from MOBILE4; therefore, EPA is unable to compare the current inventory with the projections in the FIP.

Finally, the new carbon monoxide inventory developed by the Maricopa Bureau of Air Pollution Control shows that off-road mobile sources (sources such as construction equipment, airplanes, trains, and small utility equipment) emit more CO and contribute a greater portion of the overall CO inventory than had been thought. Where previous inventories placed the non-road mobile sources' contribution at approximately 9 percent of the total CO inventory, these sources are now believed to contribute up to 21 percent of total CO inventory. This increase in the inventory from non-road sources has the effect of both increasing the overall CO inventory and decreasing the overall contribution to the nonattainment problem of automobiles and trucks.

EPA has now completed the initial updated air quality modeling for the Maricopa area. The modeling protocol and results are discussed in the next sections.

IV. Air Quality Modeling

A. Modeling Protocol

This section briefly describes the modeling performed for the Maricopa area. A complete description of the data and techniques used in this modeling are contained in the modeling protocol in the Technical Support Document.

To determine if additional control measures are necessary for attainment and maintenance in the Maricopa area, EPA applied the Urban Airshed Model (UAM). EPA's Guideline for Regulatory Application of the Urban Airshed Model for Areawide Carbon Monoxide (EPA–450/4–92–011 a and b, June 1992) prescribes the use of UAM for areas where the CO problem is not due solely to "hotspots" at a few major road intersections, or where a build-up of CO over time would violate the steady-state assumptions in other air quality models.

As was noted in Table 1, several exceedences of the CO standard occurred in December, 1992. All were fairly close in CO level and in geographic location. The December 3rd episode was chosen to be modeled because of the widespread high CO values monitored on that day.

Using hourly CO emissions[5] and meteorological inputs for the December 3rd episode, UAM was used to simulate the areawide CO concentrations. The more localized hotspot component, determined with the CAL3QHC model, was added to UAM's areawide component to represent CO near the congested intersections of Thomas Road with Grand and 27th Avenues, and Indian School Road with Grand and 35th Avenues, the sites of the existing hotspot monitors. UAM's and CAL3QHC's predictions were then validated against CO concentrations actually observed during the December 3rd episode at all CO monitors located in the nonattainment area.

After the model was validated against the December 3rd, 1992 episode, it was rerun using baseline CO emissions projected for December, 1995.[6] These emissions were calculated assuming only existing control measures. To demonstrate attainment of the CO standard in 1995, modeled CO values must be no more than 9.0 ppm (the CO NAAQS) everywhere within the nonattainment area.

B. Modeling Results

The UAM simulations performed indicate that the Maricopa area will not attain the CO standard by 1995 with existing control measures. Further, the modeling indicates that high CO levels extend over a wide area and are not localized at specific hotspots.

For 1992, the model shows two areas of high CO values. One is a wide upside-down triangle or "T" shape centered on downtown Phoenix, with the arms of the "T" corresponding to, but far broader than, Interstates 10 and 17. The other area of high concentration is centered to the southeast, near Tempe and the Superstition Freeway. The latter area had the highest peak simulated areawide CO component for 1992 of 13.8 ppm. These general shapes persist in the 1995 results, though with a lower peak of 12.8 ppm now located in the downtown area. The areas of high ambient CO concentrations roughly matched the distribution of CO emissions.

Predicted 1995 CO including the hotspot component was about 13.1 ppm near the Indian School Road intersection and 11.4 ppm near the Thomas and Grand intersection. These modeled hotspot maxima did not occur exactly at the locations of the monitoring sites. This may indicate that the monitors were not optimally placed at these hotspots given the meteorological conditions of the December 3rd episode.

For this application, the model's performance was acceptable: the accuracy of peak prediction was within EPA guidelines, by several statistical measures. Plots of stimulated CO levels

[4] A complete discussion of this modeling analysis can be found in the FIP proposed rule, 55 FR 41204 (October 10, 1990), and the Technical Support Document for the final FIP rule.

[5] On-road motor vehicle emissions were calculated from MOBILE5 rather than MOBILE5a which is the current EPA model for mobile source emission calculations. MOBILE5a was released (on March 26, 1993) too late for use in this air quality modeling exercise. MOBILE5a corrected minor errors in MOBILE5. These corrections primarily affected calculations of either ozone precusor emissions or reductions from control strategies that are not currently applicable to the Maricopa area. Therefore, it is unlikely that MOBILE5a if it had been used would have resulted in different emissions or air quality modeling results.

[6] Late 1995 was chosen here because it is the statutory attainment date for moderate CO nonattainment areas such as Maricopa County.

over time for each monitor show that the model gives a reasonable match to the observations, and in general predicts peak values quite well.

For 1992, the model's simulated 13.8 ppm peak concentration does not occur at a monitored location and is significantly higher than the 9.6 ppm maximum observed at the existing ambient monitors. EPA's assessment of the model's reliability had to address the question of why the monitored CO peak values over the last few years have shown a downward trend—nearly to attainment—whereas the modeling shows continuing high values.

This difference may be due to the siting of the existing CO ambient monitors which may not be located at the true CO peak for this particular CO episode. This can be tested by placing monitors during the next CO season at the locations that the modeling indicates have high CO levels. The Maricopa County Air Pollution Control Division is currently undertaking a review of its monitoring system and will be siting additional monitors late this year.

Alternatively, there may be some inaccuracy in the modeling inputs, such as in emissions, the wind inputs, and the height of the inversion. It should be noted that the precise modeled peak values given above are preliminary and are subject to change, though they are very likely to remain above the standard. EPA continues to review these issues; however, after preliminary review, the Agency does not believe that they affect the conclusion that the Maricopa area will continue to exceed the CO standard in 1995.

Because of the correspondence between emissions and ambient concentration patterns, the acceptable performance of the wind modeling and the UAM statistical measures, and the insensitivity of the modeling results to some of the uncertainties, EPA judges that this application of UAM forms a reliable tool for decisions about the projected attainment status of the Maricopa area.

C. Implementation Status of Control Measures

The primary CO control strategy for the Maricopa area consists of four programs: oxygenated gasoline, a wintertime gasoline volatility limit, motor vehicle inspection and maintenance, and employer travel reduction.[7] Except for the wintertime gasoline volatility limit, information available to EPA indicates that these program are achieving, or have been modified to achieve, the emission reductions projected for them in the FIP. These programs, the assumptions made in the FIP about their effectiveness, and their current implementation status is discussed in the Technical Support Document for this rulemaking.

The wintertime gasoline volatility limit program requires that all gasoline sold in the Maricopa area during the CO season have a volatility (measured as Reid Vapor Pressure or RVP) of no more than 10 pounds per square inch (psi). Gasolines blended with ethanol are allowed to exceed this limit by no more than 1 psi because the addition of ethanol to gasoline raises the RVP of gasoline by approximately 1 psi. In projecting the benefit of the RVP limit in the FIP, EPA assumed that the market-share of ethanol blends would be 18 percent with methyl tert-butyl ether (MTBE) blends making up the balance of the market.[8] In the 1992/93 CO season the actual market share of ethanol blends was 73 percent. This unexpectedly high market-share for ethanol reduced the predicted benefit from the wintertime RVP limit. EPA believes, however, that while this reduction in effectiveness may have contributed to the 1991 violations, it was not by itself the cause of these violations.

V. Finding on the Need for Additional Control Measures

The next step in the FIP contingency process requires EPA to make a finding as to whether additional control measures are necessary to correct the emission reduction shortfall after the time EPA could reasonably promulgate these additional measures.

The Maricopa CO nonattainment area was classified by EPA under CAA section 186(a)(1) as a moderate CO nonattainment area with a design value less than 12.7 ppm. See 56 FR 56694, 56714 (November 6, 1991). CAA section 186(a)(1) sets attainment dates for moderate CO nonattainment areas as expeditiously as practicable but not later than December 31, 1995.

As discussed above, the initial modeling for the Phoenix area shows that the area will not attain the CO standard even by the outside date required by the Clean Air Act—December 31, 1995—with the existing SIP-approved control strategy. The simulated CO values are enough above the standard of 9.0 ppm, that in spite of the uncertainties of the modeling, the Agency is proposing to conclude that existing control measures are not sufficient to overcome the observed standard violations or to provide for attainment by 1995. Based on this result, EPA is proposing to find that additional control measures are necessary.[9] If the Agency should finalize this finding, then EPA has six months to propose the necessary additional control measures and four months beyond that to promulgate the measures.[10] The Agency invites comments on this proposed finding and on potential control measures that it should consider for the Maricopa area.

VI. List of Highway Projects Subject to Delay

Under the FIP contingency process, a finding by EPA that additional control measures are necessary for maintenance triggers the delay of a listed set of highway projects while EPA promulgates those measures. Tables 2 and 3 contain the proposed lists of transportation projects from the Maricopa County nonattainment area that EPA has determined may adversely affect air quality and, therefore, could potentially be delayed. During the period of delay, the Federal Highway Administration could not fund construction of any of the listed projects. Not all the projects on the lists would actually be delayed; many of the projects are scheduled for construction before or after the period that the delay would be in effect. Under the FIP contingency process, EPA has approximately 10 months from when it

[7] It is important to note that the overall SIP control strategy for the Maricopa area consists of many more measures (including many transportation control measures) than the four listed here. These four measures, however, are the ones that were explicitly credited in the attainment demonstration contained in the 1991 FIP. The attainment demonstration also relies on emission reductions from the Federal Motor Vehicle Control Program.

[8] The addition of MTBE to gasoline does not raise the RVP of the blend. The market share assumptions were based on actual market shares from the 1989/90 CO season. Market share levels are not regulated under either the oxygenated gasoline program or the RVP program.

[9] The Arizona Legislature recently passed a CO contingency measure which would eliminate the 1 psi exemption for ethanol blends and require all gasoline sold in the Maricopa area, regardless of the oxygenate, to have an RVP no greater than 10 psi during the winter CO season. Under the terms of the legislation, this measure will be triggered when EPA finalizes the finding that additional control measures are necessary. This measure is projected to reduce total CO emissions by 3.9 percent by 1995. Based on the preliminary modeling results, this measure, while an important step in reducing CO levels in Phoenix, is not by itself sufficient to change EPA's proposed conclusion that additional control measures are necessary.

[10] The State may and EPA encourages Arizona to submit adopted control measures that may eliminate—if the measures are adequate to demonstrate expeditious attainment—or reduce the need for EPA to propose and promulgate federal measures under the FIP contingency process.

takes final action on today's notice to propose and promulgate the necessary additional control measures; therefore, the maximum period that any one project should be delayed is approximately 10 months.

Projects on the lists are drawn from the highway element of the Maricopa Association of Governments' *FY 1992/93 through 1996/97 Transportation Improvement Program* (TIP) adopted July 29, 1992. EPA followed the same procedure, discussed at 55 FR 41224 (October 10, 1990), that was used in the FIP to select projects for listing. The procedure uses a set of exemptions to screen projects in the TIP. These exemptions are:

(a) Road rehabilitation projects which do not increase capacity, landscaping projects, right-of-way acquisitions, design and engineering studies, and other projects which by their nature do not adversely impact air quality;

(b) Projects not requiring any federal action, approval, or funding under title 23 U.S.C.;

(c) Safety projects as defined in "EPA/FHWA Region IX Procedures to Implement Section 176(a)" (December 12, 1980);

(d) Projects that implement TCMs in the 1988 Maricopa CO SIP or 1990 PM10 plan;

(e) Transit projects;

(f) Aviation projects; and

(g) Projects outside of the Maricopa nonattainment area as defined in 56 FR 56694 (November 6, 1991).

Consistent with how it historically has implemented highway funding sanctions, EPA also has not listed projects from the TIP for which construction contracts have already been issued, construction has commenced, or construction is completed.

As discussed at 55 FR 41224, these exemptions were developed from EPA's 1982 SIP guidance language requiring a highway delay list and the section 176(a) language regarding the highway funding sanction in the 1977 Clean Air Act.[11]

For each project listed, EPA also determined the current status of the project.[12] As part of this work, EPA discovered that a number of projects had been proposed by their sponsors to be withdrawn from development, downsized, or withdrawn from federal funding or approval. Many of these proposed changes will be reflected in the FY 1993/94 through FY 1997/8 TIP currently being drafted by the Maricopa Associaton of Governments. However, because this new TIP is a draft and subject to change, EPA believes that it must still rely on the 1992/93 TIP as the primary source of projects for listing. In order to deal with the possibility that certain projects will in the future qualify for exemption from delay, EPA has divided the highway projects potentially subject to delay into two groups. The first group is listed in Table 2 and are the projects that are proposed to change in scope or source of funding. The second group is listed in Table 3 and are the projects that may in the future qualify for exemption from delay. To the extent that the projects on Table 3 do become exempt based on their listing in the FY 1993/4 TIP, EPA would not consider them subject to delay. However, any project on Table 3 which does not become exempt will still be subject to delay.

EPA solicits comments on the listed projects including whether any additional projects should be listed or whether any listed projects should be removed. Such comments should include information on the impact of the project on air quality or, if appropriate, the exemption status of the project consistent with the criteria discussed above.

TABLE 2.—HIGHWAY PROJECTS POTENTIALLY SUBJECT TO DELAY

ID No.	Fiscal year	Location	Worktype
5	93	101L Agua Fria/I–17 Interchange	Construct Central Structures (West Legs).
168	93	Queen Creek Road	New Construction.
210	93	Thompson Ranch Rd, Grand Ave to Greenway Rd	New Construction.
225	93	Elliot and Lindsey Roads	Reconstruct to 6' cross section, widen from 2 to 4 lanes, improve railroad crossing.
237	93	67th Ave, Peoria to Cactus	Widen from 4 to 5 lanes.
264	93	Avenida del Yaqui, Calle Sonora to Highline Canal	Reconstruct to 44' cross section.
283	93	Bell Rd, 31st St to 45th St	Widen from 4 to 6 lanes.
284	93	Bell Rd, 45th St to Tatum Blvd	Widen from 4 to 6 lanes.
285	93	Bell Rd, 64th St to Scottsdale Rd	Widen from 4 to 6 lanes.
286	93	Bell Rd, 7th St to 20th St	Widen from 4 to 6 lanes.
287	93	Bell Rd, 99th Ave to New River Bridge	Widen from 4 to 6 lanes.
289	93	Bell Rd, Tatum Blvd to 64th St	Widen from 4 to 6 lanes.
319	93	Queen Creek Rd, I–10 to Price Rd	Construct 4 lanes.
385	93	Baseline Rd, Country Club Dr to Horne Rd	Widen from 4 to 6 lanes.
391	93	Mesa Dr, Baseline Rd to SR 360	Widen from 3 to 6 lanes.
487	93	99th Ave, Bridge across New River	Construct new bridge.
502	93	40th St, Baseline Rd to Southern Ave	Reconstruct to 64' cross section widen from 2 to 5 lanes.
503	93	7th St, Bell Rd to Union Hills Dr	Reconstruct to 84' cross section widen from 4 to 6 lanes.
504	93	7th St, Union Hills Dr to Beardsley Rd	Reconstruct to 84' cross section widen from 4 to 6 lanes.
505	93	Bell Rd, Tatum Blvd to 64th St	Reconstruct to 84' cross section widen from 4 to 6 lanes.
586	93	Cactus Rd, 60th St to Scottsdale Rd	Reconstruct roadway to 61' cross section widen from 2 to 4 lanes.
64	94	153 Sky Harbor Expwy University Dr to Sky Harbor	Construct roadway.
75	94	I–10 Maricopa Fwy, Superstition to Baseline Rd. Unit II	Reconstruct interchange, widen mainline, I–10 HOV lanes.

[11] The Clean Air Act Amendments of 1990 provided new criteria for determining which projects are exempt under highway sanctions. Safety and transit capital projects are still exempt, but now specific transportation control measures projects are also exempt whether or not they are SIP (or FIP) measures. See section 179(b). EPA has reviewed the proposed list of highway projects to assure that no project is listed that in its entirety would be explicitly exempt from highway sanctions under the 1990 Amendments.

[12] This information is contained in the document, "Arizona Contingency Program—Highway Delay List," System Applicatons International, April 30, 1993, which can be found in the docket for this rulemaking.

TABLE 2.—HIGHWAY PROJECTS POTENTIALLY SUBJECT TO DELAY—Continued

ID No.	Fiscal year	Location	Worktype
81	94	I–17 Black Canyon Fwy, Thomas Rd to Glendale Ave	Widen mainline from 6 to 8 lanes.
157	94	Van Buren St, Dysart Rd to Agua Fria River	Widen from 2 to 4 lanes.
240	94	67th Ave, Camino de la Campana to Angela Dr Skunk Creek Bridge	Widen from 2 to 4 lanes, reconstruct, bridge, sidewalks.
260	94	Van Buren St, SP Railroad to Bullard	Reconstruct from 2 to 4 lanes.
330	94	Bell Rd, 20th St to 31 St	Widen from 4 to 6 lanes.
331	94	Bell Rd, I–17 to 19th Ave	Widen from 4 to 6 lanes.
408	94	Baseline Rd, Horne Rd to Gilbert Rd	Widen from 4 to 6 lanes.
411	94	Stapley Dr, Baseline Rd to SR 360	Widen from 4 to 6 lanes.
523	94	83rd Ave, Indian School Rd to Camelback Rd	Reconstruct to 64' cross section, widen from 2 to 5 lanes.
526	94	Greenway Rd, 51st Ave to 43rd Ave	Reconstruct to 64' cross section, widen from 2 to 5 lanes.
104	95	I–17 Black Canyon Fwy, Bell Rd Interchange	Reconstruct interchange.
265	95	Avenida del Yaqui, Calle Carmen to Calle Guadalupe	Reconstruct to 44' cross section.
538	95	43rd Ave, Buckeye Rd to Van Buren St	Reconstruct to 68' cross section, widen from 2 to 5 lanes.
539	95	43rd Ave, Lower Buckeye Rd to Buckeye Rd	Reconstruct to 68' cross section, widen from 2 to 5 lanes.
542	95	Thomas Rd, 91st Ave to 83rd Ave	Reconstruct to 84' cross section, widen from 2 to 5 lanes.
697	95	91st Ave, I–10 to Buckeye Rd	Reconstruct to 84' cross section.
118	96	87 Arizona Ave, Frye Rd—South	Reconstruct from 4 to 6 lanes, pave.
121	96	I–10 Maricopa Fwy, Baseline Rd to Warner Rd	Close median, add 4 median lanes.
553	96	35th Ave, Agua Fria Fwy to Deer Valley Rd	Reconstruct to 74 cross section, widen from 2 to 6 lanes.
556	96	Thomas Rd, 99th Ave to 91st Ave	Reconstruct to 84' cross section, widen from 2 to 6 lanes.
558	96	Union Hills Dr, Cave Creek Rd to 32nd St	Reconstruct to 74' cross section, widen from 2 to 6 lanes.
140	97	I–17 Black Canyon Fwy, Glendale Ave to Ariz Canal	Widen mainline from 6 to 8 lanes.
266	97	Calle Guadalupe, Avenida del Yaqui to Highland Canal	Reconstruct to 44' cross section.
570	97	7th St, Pima Fwy to Deer Valley Rd	Reconstruct to 84' cross section, widen from 2 to 6 lanes.

TABLE 3.—HIGHWAY PROJECTS POTENTIALLY SUBJECT TO DELAY WHICH MAY BE EXEMPTED

ID No.	Fiscal year	Location and reason for exemption	Worktype
164	93	Chandler Blvd, McQueen Rd to ¼ mile past Cooper Road—withdrawn	Widen from 4 to 5 lanes.
167	93	Germann Road—withdrawn	New Construction.
234	93	59th Ave, Thunderbird Rd to Greenway Rd—bid award by June 18	Widen from 4 to 5 lanes, reconstruct.
297	93	Dysart Rd, McDowell Rd to R.I.D. Canal—local funding only	Reconstruct 2 to 4 lanes.
177	94	Cooper Rd—withdrawn	Widen from 2 to 4 lanes.
179	94	Fyre Road—withdrawn	Widen from 2 to 4 lanes.
180	94	McQueen Rd—withdrawn	Widen from 2 to 4 lanes.
244	94	Olive Ave, 59th to 67th—downsized to overlay only/local funds only	Widen from 4 to 5 lanes.
245	95	67th Ave, Alice to Olive Ave.—local funding only	Widen from 2 to 5 lanes.
248	96	Bell Rd, 51st Ave to 67th Ave.—local funding only	Widen from 2 to 4 lanes.
336	94	Dysart Rd, Camelback Rd to Northern Ave.—local funding only	Reconstruct from 2 to 4 lanes.
337	94	Dysart Rd, R.I.D. Canal to Camelback Rd.—local funding only	Reconstruct from 2 to 4 lanes.
569	97	32nd St Bell Rd to Union Hills Dr.—local funding only	Reconstruct to 74' cross section, widen from 2 to 6 lanes.
572	97	Union Hills Dr, 7th St to 16th St.—local funding only	Reconstruct to 84' cross section, widen from 2 to 6 lanes.

VII. Proposed Actions

In summary, EPA is finding that the Maricopa County (Phoenix), Arizona, carbon monoxide (CO) nonattainment area has violated the CO NAAQS after December 31, 1991, the projected attainment date in the 1991 Arizona FIP. This violation triggers the contingency procedures in the FIP. These procedures require the Agency to determine if additional control measures are necessary to attain and maintain the CO standard in the Maricopa nonattainment area. EPA has performed air quality modeling which indicates that the existing set of control measures is not adequate to prevent future violations of the CO standard in the Maricopa area. Based on this modeling result, EPA is proposing to find that the Maricopa CO implementation plan is inadequate and that additional control measures are necessary to attain and maintain the CO NAAQS. EPA is also proposing lists of highway projects, some of which will be delayed while EPA promulgates any necessary additional control measures.

EPA invites public review and comments on the air quality modeling results, the proposed conclusion that additional control measures are necessary, and the list of highway projects subject to delay. Comments should be sent to the address listed at the beginning of this notice.

VIII. Regulatory Requirements

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement for a regulatory impact analysis. EPA has determined that this proposal is not major. Specifically, EPA's potential action under this notice will be temporary and will cost less than $100 million annually, will cause no major price increases, and should not have a significant long-term adverse effect on competition, productivity, or

investment. Accordingly, no regulatory impact analysis is necessary.

This rulemaking was also submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and EPA's response to those comments will be placed in the public docket for this rulemaking.

Section 605 of the Regulatory Flexibility Act requires that the Administrator certify that its actions do not have a significant impact on a substantial number of small entities. I certify that this action will not have such an effect because EPA is proposing to exempt highway projects already under contract for construction or under construction.

There are no reporting or recordkeeping requirements under this proposed rulemaking.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 21, 1993.

Carol M. Browner,

Administrator.

[FR Doc. 93–15066 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA–47–1–5929; FRL–4671–7]

Conditional Approval of California's Commitment To Implement Basic and Enhanced Motor Vehicle Inspection and Maintenance (I/M) Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to conditionally approve a revision to the California State Implementation Plan (SIP) for the attainment of National Ambient Air Quality Standards for carbon monoxide and ozone. The California Air Resources Board submitted this revision to EPA on November 13, 1992. The revision provides for the adoption and implementation of basic and enhanced vehicle inspection/maintenance (I/M) programs meeting all requirements of EPA's I/M regulation. EPA is proposing to conditionally approve this SIP revision. The proposed conditional approval is based on the commitment by the Governor to the timely adoption and implemention of basic and enhanced I/M programs meeting all requirements of the I/M regulation, and upon submission of a schedule of implementation. A full SIP revision including legal authority to implement the programs is required by November 15, 1993.

DATES: Comments must be received on or before July 28, 1993.

ADDRESSES: Written comments should be addressed to: U.S. Environmental Protection Agency, Region 9, Air and Toxics Division (A–2–1), Attention: Docket No. CA–93–IM–1, 75 Hawthorne Street, San Francisco, CA 94105.

A copy of the committal letter with attachments is contained in Docket No. CA–93–IM–1 and is available for public inspection at EPA's Region 9 office (address above) during normal business hours.

FOR FURTHER INFORMATION CONTACT: Sylvia Dugré, Mobile Sources Section (A–2–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105 Telephone: (415) 744–1224.

SUPPLEMENTARY INFORMATION:

Clean Air Act Requirements

The Clean Air Act as amended in 1990 (CAA or the Act) requires States to make changes to improve existing I/M programs or implement new ones. Section 182(a)(2)(B) required any marginal or worse ozone nonattainment area with an existing I/M program that was part of a SIP, or any area that was required previously by the Act to have an I/M program, to immediately submit a SIP revision to bring the program up to the level of past EPA guidance or to what had been committed to previously in the SIP, whichever was more stringent. All carbon monoxide nonattainment areas were also subject to this requirement to improve existing or previously required programs to this level. In addition all moderate and worse ozone nonattainment areas must implement a basic I/M program, regardless of previous requirements.

EPA was also directed to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. Each area required by the Act to have an I/M program was to incorporate this guidance into the SIP. Marginal and moderate ozone nonattainment areas and carbon monoxide (CO) nonattainment areas with design classifications of 12.7 ppm or less required to have I/M programs were required to meet EPA guidance for "basic" I/M programs. Serious and worse ozone nonattainment areas with populations of above 200,000 and CO nonattainment areas with design classifications above 12.7 ppm and populations of 200,000 or more, in addition to metropolitan statistical areas with populations of 100,000 or more in the northeast ozone transport region, were required to meet EPA guidance for "enhanced" I/M programs. These areas were required to submit a SIP revision to incorporate an enhanced I/M program by November 15, 1992.

In California a basic I/M program is required in the following urbanized areas:

Antioch-Pittsburg
Chico
Davis
Fairfield
Hemet-San Jacinto
Hesperia-Apple Valley-Victorville
Indio-Coachella
Lancaster-Palmdale
Lodi
Lompoc
Merced
Modesto
Napa
Palm Springs
Salinas
San Francisco-Oakland
San Jose
San Luis Obispo
Santa Barbara
Santa Cruz
Santa Maria
Santa Rosa
Seaside-Monterey
Simi Valley
Stockton
Vacaville
Visalia

An enhanced I/M program must be implemented in the following urbanized areas:

Bakersfield
Fresno
Los Angeles
Oxnard-Ventura
Riverside-San Bernardino
Sacramento
San Diego

Basis for Conditional Approval

EPA believes conditional approval is appropriate in this case because the State could not be expected to begin developing an I/M program meeting the requirements of the Act and the I/M regulation until the I/M regulation was adopted as a final rule. The I/M regulation was published in the **Federal Register** on November 5, 1992 under Subpart S, part 51, title 40 Code of Federal Regulations. EPA does believe the State can adopt revised I/M program plans within one year of EPA's final rule. As a condition of EPA's proposed approval, the I/M regulation requires

that by November 15, 1993, a complete SIP revision be submitted which contains all of the elements in the implementation schedule, including authorizing legislation and implementing regulations. The proposed conditional approval in this action should not be interpreted as an approval of the program design features. In order to be considered complete and fully approvable, the 1993 submittal must include an analysis of the program using the most current EPA mobile source emission model, or an alternative model approved by the administrator, demonstrating that the program meets the applicable performance standard, among other features.

I/M Regulation Requirements

The I/M regulation required each state that must implement an I/M program to submit by November 15, 1992, a SIP revision including two elements, a commitment from the Governor or his designee to the timely adoption and implementation of an I/M program meeting all requirements of the I/M regulation, and a schedule of implementation.

State Submittal

The State of California submitted a committal SIP revision on November 13, 1992. The submittal became complete by operation of law under section 110(K)(1)(B) on May 13, 1993. The submittal includes a letter from the Executive Officer of the California Air Resources Board and a copy of Resolution 92–74 which was adopted at a public hearing held by the Air Resources Board on November 13, 1992. The Resolution directs the Executive Officer to submit the committal letter to EPA as a revision to the SIP. The submittal includes a commitment to the timely adoption and implementation of basic and enhanced I/M programs meeting all requirements of the I/M regulation and the Act in all the nonattainment areas in California where these programs are required. A schedule of implementation is included in a letter sent by the Executive Officer to EPA on January 15, 1993 clarifying certain details of the November 13, 1992 SIP submittal.

Statement of Approvability

Under the authority of the Governor, the State of California Air Resources Board submitted a SIP revision to satisfy the requirements of the I/M regulation to EPA on November 13, 1992. The Agency has reviewed this submittal and proposes to conditionally approve it under section 110(k)(4) of the Act. If, however, the State fails to adopt legislative authority or meet certain other applicable interim milestones in the commitment prior to EPA's final action on this proposal, EPA proposes in the alternative to disapprove the commitment as failing to comply with section 110(k)(4) because EPA believes that California could not meet the November 15, 1993 submission date if it fails to meet those interim milestones.

If EPA takes final action to conditionally approve the commitment, the State must meet its commitment to adopt legislation and regulations meeting all requirements of the I/M regulation and submit a complete SIP revision which contains all the elements in the implementation schedule, including the authorizing legislation and implementing regulations, by November 15, 1993. Once EPA has conditionally approved this committal, if the State fails to adopt or submit the authorizing legislation and implementing regulations within this time frame, this approval will become a disapproval upon EPA notification of the State by letter. At that time, this commitment to implement basic and enhanced I/M programs will no longer be part of the approved California SIP. EPA subsequently will publish a notice in the notice section of the **Federal Register** indicating that the commitment has been disapproved and removed from the SIP. If the State adopts and submits the authorizing legislation and implementing regulations within the applicable time frame, the conditionally approved commitment will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal.

If EPA issues a final disapproval or if the conditional approval is converted to a disapproval, the sanctions clock under section 179(a) of the Act will begin. This clock will begin at the time EPA issues the final disapproval or at the time EPA notifies the State by letter that the conditional approval has been converted to a disapproval. If the State does not submit and EPA does not approve the I/M programs on which the disapproval was based within 18 months of the disapproval, EPA must impose one of the sanctions under section 179(b)—highway funding restrictions or the offset sanction. In addition, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c). Finally, under section 110(m) EPA has discretionary authority to impose sanctions at any time after a final disapproval.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and entities with jurisdiction over populations less than 50,000.

Conditional approvals under sections 110 and 301 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing or has committed to impose in the future. Therefore, because the federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v *U.S.E.P.A.*, 427 U.S. 246, 256–266 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for a Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 18, 1993.

John C. Wise,

Acting Regional Administrator.

[FR Doc. 93–15067 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-166, RM-8242]

Radio Broadcasting Services; Rexburg, Idaho and Afton, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Communicast Consultants, Inc., permittee of Station KRXK-FM, Channel 251C3, Rexburg, Idaho, seeking the substitution of Channel 251C1 for Channel 251C3 at Rexburg, and modification of its construction permit to specify the higher class channel. This proposal also requires the substitution of Channel 254A for Channel 252A at Afton, Wyoming. The coordinates for Channel 251C1 at Rexburg are North Latitude 43-32-34 and West Longitude 111-53-07. The coordinates for Channel 254A at Afton's authorized site are North Latitude 42-51-02 and West Longitude 110-58-46.

DATES: Comments must be filed on or before August 13, 1993, and reply comments on or before August 30, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Marvin Rosenburg, Kathleen Victory, Fletcher, Heald & Hildreth, 1300 North 17th Street, 11th Floor, Rosslyn, VA 22209 (Attorneys for Petitioner).

FOR FURTHER INFORMATION CONTACT: Nacy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-166, adopted June 7, 1993, and released June 22, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-15053 Filed 6-25-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 93-168, RM-8241]

Radio Broadcasting Services; Lena, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Jane Lucas seeking the allotment of Channel 271A to Lena, Illinois, as that community's first local aural service. Channel 271A can be allotted to Lena in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.5 kilometers (5.3 miles) south. The coordinates for Channel 271A at Lena are North Latitude 42-18-27 and West Longitude 89-47-45.

DATES: Comments must be filed on or before August 13, 1993, and reply comments on or before August 30, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jane Lucas, 301 South King Street, Mount Carroll, IL 61053 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-168, adopted June 7, 1993, and released June 22, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-15052 Filed 6-25-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 93-167, RM-8256]

Radio Broadcasting Services; Chillicothe, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Livingston Broadcasting Corporation proposing the substitution of Channel 280C3 for Channel 280A at Chillicothe, Missouri, and modification of the license for Station KCHI-FM to specify operation on Channel 280C3. The coordinates for Channel 280C3 are 39-45-15 and 93-27-09. We shall propose to modify the license for Station KCHI-FM in accordance with § 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before August 13, 1993, and reply comments on or before August 30, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the

FCC, interested parties should serve the petitioner, as follows: Steve Mickelson, President, Livingston Broadcasting Corporation, 421 Washington, P.O. Box 227, Chillicothe, Missouri 64601.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–167, adopted June 7, 1993, and released June 22, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15049 Filed 6–25–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–169, RM–8246]

Radio Broadcasting Services; Walterboro and Ridgeville, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Gresham Communications, Inc., seeking the reallotment of Channel 265C3 from Walterboro, South Carolina, to Ridgeville, South Carolina, and the modification of Station WPAL–FM's license to specify Ridgeville as its community of license. Channel 265C3 can be allotted to Ridgeville in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 kilometers (1.7 miles) west to accommodate petitioner's desired transmitter site, at coordinates North Latitude 33–06–00 and West Longitude 80–20–30.

DATES: Comments must be filed on or before August 13, 1993, and reply comments on or before August 30, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William J. Pennington, III, Esq., P.O. Box 2506, Pawleys Island, South Carolina 29585 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–169, adopted June 7, 1993, and released June 22, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–15048 Filed 6–25–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Comment Period and Public Hearing on Proposed Rule To Establish Additional Manatee Sanctuaries in Kings Bay, Crystal River, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: The Service gives notice that the comment period is extended on a proposed rule to add additional manatee sanctuaries in Kings Bay, Crystal River, Florida, pursuant to the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972. A public hearing will allow all interested parties to orally submit comments on the proposed rule.

DATES: The public hearing will be held from 7 p.m. to 9 p.m. on July 15, 1993, in Crystal River, Florida. The comment period on the proposed rule is extended until July 30, 1993.

ADDRESSES: The public hearing will be held at the Coastal Region Library meeting room, 8619 W. Crystal Street, Crystal River, Florida. Written comments and materials concerning the proposed rule should be sent directly to the Manatee Coordinator, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, suite 310, Jacksonville, Florida 32216–0912. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert O. Turner, Manatee Coordinator, at the above address (telephone: 904/232–2580, fax 904/232–2404).

SUPPLEMENTARY INFORMATION:

Background

The proposed rule published on May 13, 1993 (58 FR 28381) would establish three additional permanent manatee (*Trichechus manatus*) sanctuaries and extend an existing sanctuary in Kings Bay, Crystal River, Florida. All waterborne activities would be prohibited in these sanctuaries from November 15 through March 31 of each year. The proposed action would prevent the taking of manatees by harassment resulting from waterborne activities during the winter months. The number of sanctuaries in Kings Bay

would be increased from three (10.7 acres) to six (28.1 acres) to accommodate the increasing number of manatees using the area each winter, and to alleviate the harassment from increasing public use.

The proposed rule stated that a public hearing would be held if requested. On June 10, 1993, the Service received such a request from the Crystal River Chamber of Commerce. The public hearing is scheduled for July 15, 1993, from 7 p.m. to 9 p.m. at the Coastal Region Library in Crystal River, Florida. Parties wishing to make statements for the record are encouraged to bring a copy of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. The extended comment period for the proposed rule closes on July 30, 1993. Written comments should be submitted to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Robert O. Turner, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, suite 310, Jacksonville, Florida 32216–0912 (904/232–2580 or fax 904/232–2404).

Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544), and the Marine Mammal Protection Act (16 U.S.C. 1361–1407).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: June 18, 1993.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 93–15054 Filed 6–25–93; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 58, No. 122
Monday, June 28, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Submitted to OMB for Review

AGENCY: Action.

ACTION: Information collection submitted to the Office of Management and Budget for review.

SUMMARY: The following form has been submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.A. chapter 35). This entry is not subject to 44 U.S.C. 3504(h). Copies of the submission may be obtained from the ACTION Clearance Officer.

DATES: OMB and ACTION will consider comments received by July 28, 1993.

ADDRESSES: Send comments to both:

Willard L. Hoing, Clearance Officer, ACTION, 1100 Vermont Ave., NW., Washington, DC 20525.

Steve Semenuk, Desk Officer for ACTION, Office of Management & Budget, 3002 New Executive Ofc. Bldg., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Title and No. of Form: VISTA Project Application, Form A–1421.

Need and Use: The information provided on this document by potential and existing sponsors is considered by ACTION in making initial and renewal assignments of VISTA Volunteers.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Respondent's Obligation to Reply: Required for initial/renewal benefits.

Descriptions of Respondents: Public agencies and private non-profit organizations.

Frequency of Collection: Annually.

Estimated Number of Annual Responses: 1,500 total (1,000 new submissions; 500 renewal submissions).

Estimated Average Burden Hours per Response: 9 hours (new applicants—10 hours; renewal applicants—7 hours).

Regulatory Authority: 45 CFR 1234.

Dated: June 21, 1993.

Gary Kowalczyk,

Acting Director, ACTION.

[FR Doc. 93–15087 Filed 6–25–93; 8:45 am]

BILLING CODE 6050–28–M

Information Collection Submitted to OMB for Review

AGENCY: Action.

ACTION: Information collection submitted to the Office of Management and Budget for review.

SUMMARY: The following form has been submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.A. chapter 35). This entry is not subject to 44 U.S.C. 3504 (h). Copies of the submission may be obtained from the ACTION Clearance Officer.

DATES: OMB and ACTION will consider comments received by July 28, 1993.

ADDRESSES: Send comments to both:

Willard L. Hoing, Clearance Officer, ACTION, 1100 Vermont Ave., NW., Washington, DC 20525.

Steve Semenuk, Desk Officer for ACTION, Office of Management & Budget, 3002 New Executive Ofc. Bldg., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Title and No. of Form: VISTA Project Grant Application, Form 1421B.

Need and Use: The information provided on this document by potential and existing sponsors is considered by ACTION in making initial and renewal assignments of VISTA Volunteers.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Respondent's Obligation to Reply: Required for initial/renewal benefits.

Descriptions of Respondents: Public agencies and private non-profit organizations.

Frequency of Collection: Annually.

Estimated Number of Annual Responses: 1,500 total (1,000 new submissions; 500 renewal submissions).

Estimated Average Burden Hours per Response: 16 hours (new applicants—17 hours; renewal applicants—14 hours)

Regulatory Authority: 45 CFR Part 1234.

Dated: June 21, 1993.

Gary Kowalczyk,

Acting Director, ACTION.

[FR Doc. 93–15088 Filed 6–25–93; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Special Provisions for Fresh Fruit and Vegetable Imports Under the U.S.-Canada Free-Trade Agreement

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination of existence of conditions necessary for imposition of temporary duty on potatoes from Canada.

SUMMARY: As required by section 301(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 ("FTA Implementation Act"), this is a notification that the necessary conditions exist with respect to United States acreage and import price criteria for potatoes classifiable to subheadings 0701.10.00, 0701.90.10, and 0701.90.50 of the Harmonized Tariff Schedule of the United States (HTS) imported from Canada to permit the Secretary of Agriculture to consider recommending to the President the imposition of a temporary duty ("snapback duty") by the United States pursuant to section 301(a) of the FTA Implementation Act, implementing Article 702 of the United States-Canada Free-Trade Agreement (FTA), Special Provisions for Fresh Fruits and Vegetables.

FOR FURTHER INFORMATION CONTACT: Howard Wetzel, Horticultural & Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000 or telephone at (202) 720–3423.

SUPPLEMENTARY INFORMATION: The FTA Implementation Act, in accordance with the FTA, authorizes the imposition of a temporary duty (snapback) for a limited group of fresh fruits and vegetables when certain conditions exist. Potatoes, fresh or chilled, classified under subheadings 0701.10.00, 0701.90.10, and 0701.90.50 of the HTS are goods subject to the snapback duty provision.

Under section 301(a) of the FTA Implementation Act, two conditions must exist before imposition by the United States of a snapback duty can be

considered. First, the import price of a covered Canadian fruit or vegetable, for each of five consecutive working days, must be less than ninety percent of the corresponding five-year average monthly import price. This price for a particular day is the average import price of a Canadian fresh fruit or vegetable imported into the United States from Canada, for the calendar month in which that day occurs, in each of the 5 preceding years, excluding the years with the highest and lowest monthly averages.

Second, the planted acreage in the United States for the like fruit or vegetable must be no higher than the average planted acreage over the preceding five years, excluding the years with the highest and lowest acreage.

From April 30 to May 19, 1993, the price conditions with respect to potatoes were met.

The most recent revision of planted acreage for potatoes shows that this year's planted acreage is below the planted acreage over the preceding five years, excluding the years with the highest and lowest planted acreages.

Issued at Washington, DC the 18th day of June, 1993.

Charles J. O'Mara,

Acting Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 93-15129 Filed 6-25-93; 8:45 am]

BILLING CODE 3410-10-M

Forest Service

Crock Insect Salvage Treatment Area, Plumas National Forest; From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notice of Exemption from Appeal, Crock Insect Salvage Treatment Area Decision, Beckwourth Ranger District, Plumas National Forest.

SUMMARY: The Forest Service is exempting from administrative appeal the Crock Insect Salvage Treatment Area Decision on the Beckwourth Ranger District, Plumas National Forest. The Crock Insect Salvage Treatment Area environmental document is being prepared in response to the severe timber mortality caused by drought and related insect infestation. The Crock Insect Salvage Analysis Area is located approximately eight miles north of Portola, in Plumas County, California.

The Beckwourth Ranger District is proposing to harvest approximately 5,000 thousand board feet (MBF) of salvage timber by tractor and helicopter on about 8,600 acres. The Crock Insect Salvage Project includes approximately 1.2 miles of new road construction.

Although the winter of 1992-93 provided ample precipitation, the summer of 1992 found the eastside of the Plumas National Forest in the sixth consecutive year of drought conditions. As the trees continued to experience drought caused stress, populations of the fir engraver beetle, *Scolytus ventralis*, thrived. The resulting drought and insect caused mortality has left thousands of acres on which many white fir and red fir trees are dead. Many stands of mixed conifer timber have lost most or all of the white fir component, leaving jeffery pine, ponderosa pine, Douglas-fir, and incense-cedar. The Crock Insect Salvage Treatment Area was first treated for insect mortality in 1991. Extensive, additional mortality became evident in the fall of 1992.

Prompt removal of the dead and dying timber minimizes value and volume loss. An inventory of the timber has been completed, which shows that approximately 98 percent of the trees to be salvaged are true fir with an average diameter of 16 inches. Net volume losses for this salvage timber can be expected to average 80 percent by the spring of 1994. Volume losses at this time are 40 percent. Any delay in salvage harvest would result in additional volume loss, which translates to value loss. Such value loss could result in most or all of the project not being implemented due to the relatively high costs associated with helicopter logging and the rapidly decreasing value of the dead trees. The net value of the salvage timber is expected to decrease to zero by the summer of 1994.

The large number of dead trees have resulted in high risk fire hazard due to large amounts of dead, dry fuels covering large areas. If left alone, the dead trees would fall to the ground, resulting in a fuel arrangement that would pose an even higher risk of catastrophic fire. The need exists to reduce the high risk fire hazard by managing the fuels. Avoiding a catastrophic fire would serve to protect watersheds and other valuable resources and facilitate long-term productivity. Salvage harvest of wood fiber would partially accomplish the reduction of fuels while providing funds needed to accomplish additional fuel management objectives.

The decision for the proposed project is scheduled to be issued in July, 1993. Implementation of the project will occur in July or early August, 1993, when the salvage timber will be offered for sale. Harvest is expected to begin immediately after award of the timber sale and proceed at a rate that will allow completion or near completion of harvest activities during the fall and early winter of 1993.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decision relating to the harvest and restoration of lands covered by the Crock Insect Salvage Treatment Area Environmental Analysis on the Beckwourth Ranger District, Plumas National Forest. The environmental document being prepared will address the effects of the proposed actions on the environment, will document public involvement, and will address the issues raised by the public.

EFFECTIVE DATE: This decision will be effective on June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Forest Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705-2648, or H. Wayne Thornton, Forest Supervisor, Plumas National Forest, P.O. Box 11500, Quincy, CA 95971, (916) 283-2050.

SUPPLEMENTARY INFORMATION: The Beckwourth Ranger District initiated public scoping for the Crock Insect Salvage Project in November, 1992, encouraging the public to participate in identifying the issues and concerns to be addressed in the environmental analysis. Public scoping has been conducted over the last several years for other projects that have been analyzed in the same area, resulting in the opportunity to revisit previously identified issues and concerns in light of the Crock Insect Salvage Proposal. The project files and related maps are available for public review at the Beckwourth Ranger District Office, Mohawk Road, Blairsden, CA 96103.

No roadless areas, wilderness areas, or wild and scenic rivers are within the proposed project area. There is one bald eagle, two goshawks, and one prairie falcon in the project area. Impacts to these species will be minimized through project mitigation measures, which are documented in the appropriate environmental documents. Rehabilitation and restoration measures necessary for watershed protection, erosion prevention, and fuels reduction will be implemented.

Dated: June 21, 1993.

Dale N. Bosworth,

Deputy Regional Forester.

[FR Doc. 93-15096 Filed 6-25-93; 8:45 am]

BILLING CODE 3410-11-M

Suitability Study of the Hiwassee and Tellico Rivers for Inclusion in the National Wild and Scenic Rivers System; Cherokee and Nantahala National Forests, Monroe and Polk Counties, Tennessee; Cherokee County, NC

AGENCY: USDA, Forest Service.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to evaluate the environmental impacts of including suitable segments of the Hiwassee and Tellico Rivers classified as wild, scenic, or recreational rivers in the National Wild and Scenic Rivers System. The decision to recommend the nomination of suitable river segments to the National Wild and Scenic Rivers System rests with the Secretary of Agriculture. The Wild and Scenic Rivers Act (Public Law 90–542) reserves to Congress the authority to include rivers in the National Wild and Scenic Rivers System.

The agency invites written comments and suggestions on the suitability of these rivers and significant issues related to classifying and including them in the National Wild and Scenic Rivers System. In addition, the agency gives notice of the full environmental analysis and decision making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

The Forest Service, Tennessee Valley Authority, and the State of Tennessee jointly manage the recreational opportunities on the study section of the Hiwassee River. The Hiwassee River is a State of Tennessee Scenic River. The National Forest lands adjacent to the Hiwassee and Tellico Rivers in Tennessee are managed by the Cherokee National Forest; those lands adjacent to the Tellico River in North Carolina are managed by the Nantahala National Forest. The Cherokee National Forest is responsible for the preparation of the EIS.

DATES: Comments concerning the suitability of these two rivers and significant issues related to classifying and including them in the National wild and Scenic Rivers System must be received in writing by July 30, 1993, to ensure timely consideration.

ADDRESSES: Send written comments to Wild and Scenic River Suitability Study, c/o John F. Ramey, Forest Supervisor, P.O. Box 2010, Cleveland, TN 37320.

FOR FURTHER INFORMATION CONTACT: Amy L. Fore, Wild and Scenic Rivers Study Team Leader, Hiwassee Ranger District, Drawer D, Etowah, TN 37331, 615/263–5486.

SUPPLEMENTARY INFORMATION: In 1982, the Department of Interior listed the Tellico River (NC and TN) and the Hiwassee River (TN) for possible designation as Wild and Scenic Rivers in the National Rivers Inventory. In 1991, the Cherokee National Forest determined that portions of the Tellico and Hiwassee are eligible as components of the National Wild and Scenic River System. That information and additional findings will be documented in this EIS. Additionally, the National Forests in North Carolina found the section of the Tellico River located in North Carolina to be eligible. The EIS will address Rivers. Based on the analysis and disclosure of effects displayed in the EIS, the Forest Service will make a recommendation to the Secretary of Agriculture on whether or not these rivers should be included in the National Wild and Scenic Rivers System. The decision to include these rivers in the Wild and Scenic Rivers System rests with the United States Congress upon recommendation from the Secretary of Agriculture.

The EIS will consider the following eligible river segments:

Tellico (NC)	Headwaters to NC/TN state line	5.8 miles.
Tellico (TN)	NC/TN state line to Highway 165 bridge crossing the Tellico River near river mile 30 (old Steel bridge).	17.0 miles.
Hiwassee (TN)	Apalachia powerhouse downstream to the Forest proclamation boundary (east end of Long Island) ..	10.5 miles.

Based on information collected in the eligibility study, all river segments are potentially suitable for inclusion in the National Wild and Scenic Rivers System as recreational rivers. The impact study will determine suitability and classification of river segments as wild, scenic, or recreation rivers. The Tellico River in North Carolina was found eligible because of an outstanding native trout fishery. The portion of the Tellico in Tennessee has outstanding recreational, historic and cultural, and botanical values. The eligible section of the Hiwassee River possesses outstanding recreational, fish and wildlife, and botanical values. All eligible sections of both rivers are free of impoundments and, therefore, considered to be free flowing.

The area of consideration for each stream is a corridor a minimum of ¼ mile from each stream bank for the entire length of the stream within the Cherokee and Nantahala National Forest boundaries.

Significant issues identified during internal scoping include the effects of designation on private lands, the effects of designation on water quality, and the effects on Threatened or Endangered species.

A range of alternatives will be developed based on issues and concerns raised during the scoping process. As a minimum, one alternative will maintain current management without specific protection for the potential corridors (the no action alternative). Other potential alternatives include: (1) Designate all eligible segments of both rivers; (2) Provide protection by means other than designation; and (3) Designate eligible segments with different classifications (wild, scenic, recreational) based on identified issues. The EIS will disclose the direct, indirect, and cumulative effects of implementing each alternative.

Public participation will be especially important at several points during the analysis process. The first point is the scoping process (40 CFR 1501.7). The scoping process includes, but is not limited to: (1) identifying potential issues; (2) identifying issues to be analyzed in depth; (3) eliminating insignificant issues or those that have been covered by a relevant previous environmental analysis; (4) exploring additional alternatives; and (5) identifying potential (direct, indirect, and cumulative) environmental effects of the alternatives.

The Forest Service is seeking information, comments, and assistance from Federal, State, and local agencies and individuals or organizations who may be interested in or affected by the proposal. This information will be used to prepare a Draft Environmental Impact Statement (DESIS). In June 1993, scoping notices will be published in local and regional newspapers and letters sent to key contacts and interested and affected individuals and groups. Two open houses will be held during the scoping process to give interested parties the opportunity to meet with the planning team and

discuss any issues and concerns they have concerning the potential inclusion of the rivers in the National Wild and Scenic Rivers Systems. The first open house will focus on the Tellico River and will be held on July 20, 1993, at the Tellico Ranger District Office, Tellico Plains, Tennessee from 5 p.m. to 8 p.m. A second open house, focusing on the Hiwassee River will be held on July 22, 1993, from 5:00 p.m. to 8 p.m. at the Gee Creek State Building, 6 miles north of Benton, Tennessee and 7 miles south of Ethowah, Tennessee on U.S. Highway 411. Media announcements will be made several days in advance of both open houses. Informal contacts through phone calls and visits will also be made throughout the study. Additional mailings and media releases will occur when the Draft EIS and Final EIS are completed and available for public review.

The responsible official is Mike Espy, Secretary of Agriculture, Administration Bldg, 12th Street and Jefferson Drive, SW., Washington, DC 20250.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by March 1994. The comment period on the DEIS will be 45 days from the date the EPA publishers the Notice of Availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. Upon release of the DEIS, projected for March 1994, reviewers must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* vs. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS, but are not raised until after the completion of the Final Environmental Impact Statement (FEIS) may be waived or dismissed by the courts. *City of Angoon* vs. *Hodel,* 803F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* vs. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposal participate by the close of the 60-day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages and chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions at the National Environmental Policy Act of 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the FEIS. The final statement is scheduled to be completed by October 1994.

The Secretary of Agriculture will consider comments, responses, and environmental consequences discussed in the FEIS and applicable laws, regulations, and policies in making his recommendation to the President regarding the suitability of these rivers for inclusion in the National Wild and Scenic Rivers System. The decision on the inclusion of a river in the National Wild and Scenic Rivers System rests with the United States Congress.

Dated: June 22, 1993.

Ralph F. Mumme,

Acting Regional Forester.

[FR Doc. 93–15097 Filed 6–25–93; 8:45 am]

BILLING CODE 3410–11–M

Revised Land and Resource Management Plan for the Jefferson National Forest; Kentucky Counties of Letcher and Pike; Virginia Counties of Bedford, Bland, Botetourt, Carroll, Craig, Dickenson, Giles, Grayson, Lee, Montgomery, Pulaski, Roanoke, Rockbridge, Scott, Smyth, Tazewell, Washington, Wise and Wythe; and Monroe County, WV.

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a Draft and Final Environmental Impact Statement for a proposed action to revise the Jefferson National Forest Land and Resource Management Plan pursuant to 16 U.S.C. 1604(f)(5) and 36 CFR 219.12.

The agency invites written comments and suggestions within the scope of the analysis. In addition, the agency gives notice that a full environmental analysis and decision-making process will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

In accordance with 40 CFR 1501.6, the Bureau of Land Management will be a cooperating agency.

DATES: Comments concerning the analysis should be received by September 7, 1993, to ensure timely consideration.

ADDRESSES: Submit written comments and suggestions to: Forest Supervisor, Jefferson National Forest, 210 Franklin Road, SW., Caller Service 2900, Roanoke, Virginia 24001.

FOR FURTHER INFORMATION CONTACT: Ken Landgraf, Planning and Environmental Coordination Staff Officer, (703) 982–6270.

SUPPLEMENTARY INFORMATION: The Record of Decision for the Jefferson National Forest Land and Resource Management Plan (Forest Plan) was approved on October 16, 1985. Forest Plans are ordinarily to be revised every 10–15 years (36 CFR 219.10(g)). This Notice signals the development of an Environmental Impact Statement (EIS) for the revision of the Jefferson National Forest Land and Resource Management Plan. The decisions to be made in the planning process include:

1. Establishment of the forest-wide multiple-use goals and objectives, 36 CFR 219.11(b);
2. Establishment of forest-wide management requirements (standards and guidelines) to fulfill the requirements of 16 U.S.C. 1604 applying to future activities (resource integration requirements 36 CFR 219.13 to 219.27);
3. Establishment of management areas and management area direction (management area prescriptions) for applying future activities in that management area, 36 CFR 219.11(c);
4. Determination of land which is suitable for the production of timber, 16 U.S.C. 1604(k) and 36 CFR 219.14;
5. Establishment of allowable sale quantity for timber, 36 CFR 219.16;
6. Recommendations for Wild and Scenic River designation;
7. Determination of Forest-wide lands that will be administratively available for gas and oil leasing, specific lands for which consent to lease will be permitted, and stipulation for areas where surface occupancy will be restricted or prohibited, 36 CFR 228.102;
8. Recommendation of roadless areas as potential wilderness areas, 36 CFR 219.17; and
9. Establishment of monitoring and evaluation requirements, 36 CFR 219.11(d).

Monitoring and evaluation are required to determine how well the Forest Plan is being implemented. Monitoring and evaluation are ongoing

processes that occur in many different ways: Through management reviews, functional assistance trips, Management Attainment Reports, routine observations, site specific observations by professionals and technicians, and public comments. During the five-year review of the Forest Plan, monitoring results were evaluated and public comments were solicited to determine needed changes to the Forest Plan. This review identified several areas which needed attention during the Forest Plan revision. These issues, and others identified by the Forest Service and by the public, form the basis of the preliminary topics and issues to be examined during the revision. These are not the sole issues which will be evaluated. The Forest Service will consider public comments received on this Notice and in our public meetings to develop additional topics as needed.

The preliminary issues identified to be addressed in the revision include:

1. The Monitoring Plan. This involves making monitoring easier to implement and providing information which is more responsive to management concerns. Forest health is an item which may need to be incorporated into the monitoring plan.

2. Mineral leasing. This includes conducting the analysis to implement the federal regulations on oil and gas leasing. The BLM will be included as a cooperating agency.

3. Ecosystem management. Facets to this topic include definitions, direction and analysis of biodiversity, old growth, landscape management (fragmentation of habitat), forest health, management of unique ecosystems (balds, caves, wetlands, etc), even-aged timber harvest, use of alternative methods of vegetation management, conifer management, protection of proposed, endangered, threatened and sensitive species, use of prescribed burning, and the role of commodity production (timber, game, range, minerals) in ecosystem management.

4. Demand for Forest resources. Demand for many resources has quite likely changed over the last 10 years. Demand for saw timber has shown a recent increase based on bid prices for timber sales. Recreation demands have changed with increased demand for horse trails, mountain bike trails and higher levels of services in some campgrounds. Off-Highway Vehicle demands have also changed. These increased demands have increased the need for law enforcement. A new Analysis of the Management Situation will be prepared as part of the Revision.

5. Wildlife management and the identification of management indicator species. Management indicator species (for both flora and fauna) will need to be identified, and the role of wildlife management will need to be integrated with ecosystem management.

6. Suitable land base for timber production and Allowable Sale Quantity (ASQ). 36 CFR 219.14(d) requires a review of the suited land base at least every 10 years. This review, along with possible adjustment due to ecosystem management, timber demand, reevaluation of roadless areas, the "below-cost timber" issue, and other possible management changes have the potential to change the ASQ for the Forest.

7. Integrated Pest Management. The gypsy moth and oak decline will both have an impact on the Forest in the next ten years. The expected effects of these outbreaks need to be examined, planned controls discussed and salvage guidelines established.

8. Management areas. Several management areas have changed since the Forest Plan was prepared. In addition, new management areas may be designated to address changes in management direction, and to incorporate ecosystem management principles. Management areas on the Mount Rogers NRA are likely to change to emphasize the unique nature of that unit.

9. Resource information and inventory. Information used to evaluate resource impacts and resource outputs will need to be updated. Inventories of Forest resources will be updated. These include the Recreation Opportunity Spectrum, timber stand information, system trails and roads, off-highway vehicle routes, special interest areas, land ownership, wetlands, and old growth. The Jefferson National Forest is a pilot Forest in implementation of the new Scenery Management System. This system is an update of the current Visual Quality Management System. A revised inventory of visual resources will be accomplished, and possible changes to the visual management direction will be considered. Research needs will be revised. Land acquisition needs, budget estimates, yield tables, resource values and potential outputs will all be reviewed.

10. Review of roadless areas and updating of wilderness direction. The Virginia Wilderness Act of 1984 directs that the Forest will review the wilderness option for all RARE II areas (except those designated as wilderness) during the revision. 36 CFR 219.17(a) directs that roadless areas be evaluated and considered for recommendation as potential wilderness areas during the planning process. This will include roadless areas adjacent to existing wilderness. Direction on existing wilderness needs to be revised to reflect wilderness implementation documents and to define management direction on providing use that does not impair the values for which the wilderness areas were created.

11. Review Wild, Scenic and Recreational River candidates. Eligibility and classification determinations will be completed, as will suitability studies. River protection and management direction will be incorporated.

12. Recreation management. This includes identifying recreation development needs based on past accomplishments and changes in recreation demands, developing quality standards for developed recreation sites so that services and facilities meet customer expectations, incorporating access for people with disabilities into development plans, developing direction on monitoring and use of dispersed recreation sites, developing better definitions of Off-Highway Vehicle roads and trails, and updating the Recreation Opportunity Spectrum classifications.

13. Special uses. This includes updating management direction for special uses, particularly with respect to the management and designation of major utility and transportation corridors.

14. Air resource management. Direction is needed to guide monitoring, inventory and cooperation with state and federal regulatory actions.

Changing demands, responding to results identified by monitoring and incorporating an ecological approach to management are likely to result in some changes in management direction in all areas.

In preparing the EIS, the Forest Service will develop, as a minimum, the following range of alternatives: (1) the current program (no-action); (2) one that emphasizes meeting the most recent Resource Planning Act program; and (3) others necessary to respond to the full range of revision topics, public issues, management concerns, and resource opportunities. Wild and Scenic River and Wilderness recommendations will be included in the alternatives.

The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the proposed action. This input will be utilized in the preparation of the draft environmental impact statement. Public participation will be solicited by notifying in person and/or by mail

known interested and affected publics, news releases will be used to give the public general notice, and scoping meetings will be conducted.

Public participation will be especially important at several points during the project analysis process. The first point in the analysis is the scoping process (40 CFR 1501.7). The scoping process includes: (1) identifying potential issues (other than those previously described), (2) from these, identifying significant issues to be analyzed in depth, (3) eliminating from detailed study insignificant issues or those which have been covered by prior environmental review, (4) exploring additional alternatives, and (5) identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects).

As part of the first step in scoping, a series of public meetings are scheduled to inform the public of the revision and to seek input into other issues which need to be addressed in the revision. Comments from the public, and other agencies are welcomed. These meetings will be held at the following locations with each meeting scheduled from 7 pm to 9:30 pm:

Tuesday, July 13, 1993, Natural Bridge Resort, Natural Bridge, VA
Thursday, July 15, 1993, Holiday Inn, Blacksburg, VA
Monday, July 19, 1993, Clinch Valley College Chapel of All Faiths, Wise, VA
Tuesday, July 20, 1993, Holiday Inn, Marion, VA
Tuesday, July 27, 1993, McCleary Elementary School, New Castle, VA
Wednesday, July 28, 1993, Sheraton Airport Inn, Roanoke, VA
Monday, August 2, 1993, Wytheville Community College Grayson Hall Commons, Wythevile, VA

Comments from these meetings, in addition to comments received in response to this notice will be used to determine the scope of the revision.

The Draft Environmental Impact Statement (DEIS) is expected to be filed with the Environmental Protection Agency and to be available for public comment by February 1995. At that time, the Environmental Protection Agency will publish a notice of availability of the DEIS in the **Federal Register**. The comment period on the DEIS will be 3 months from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermonth Yankee Nuclear Power Corp.* v. *NRDC. 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the DEI stage but that are not raised until after completion of the Final Environmental Impact Statement (FEIS) may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 3 month comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed in December 1995. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making a decision regarding this revision. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal in accordance with 36 CFR 217.

The responsible official is the Regional Forester, Southern Region, 1720 Peachtree Road, NW., Atlanta, Georgia 30367.

Dated: June 22, 1993.

Ralph F. Mumme,

Acting Regional Forester.

[FR Doc. 93-15098 Filed 6-25-93; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-801, A-428-801, A-475-801, A-588-804, A-559-801, A-401-801, A-549-801, A-412-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, Thailand, and the United Kingdom; Initiation of Antidumping Administrative Reviews and Notice of Request for Revocation of Order (In Part)

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping duty administrative reviews and notice of request for revocation of orders (in part).

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of antidumping duty orders concerning Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, Thailand, and the United Kingdom. In accordance with the Commerce Regulations, we are initiating those administrative reviews for the period May 1, 1992, through April 30, 1993. We have also received requests to revoke the orders covering: spherical plain bearings and parts thereof from France with respect to sales of this merchandise made by SKF France, ball bearings and parts thereof from Germany with respect to sales of this merchandise made by NTN Kugellagerfabrik (Deutschland) GmbH and GMN George Mueller Nurnberg, cylindrical roller bearings and parts thereof from Italy with respect to sales of this merchandise made by SKF Industrie S.p.A., spherical plain bearings and parts thereof from Japan with respect to sales of this merchandise made by NTN Corporation and Honda Motor Co., Ltd., and ball bearings and cylindrical roller bearings and parts thereof from Japan with respect to sales of this merchandise made by Honda Motor Co., Ltd.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Director, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230: telephone (202) 482-2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1), (2), and (3) of the Department's regulations, for administrative reviews of antidumping duty orders covering antifriction bearings (other than tapered roller bearings) and parts thereof. The orders cover three classes or kinds of merchandise: Ball bearings (ball), cylindrical roller bearings (cylindrical), and spherical plain bearings (spherical). Pursuant to section 353.25 of the Department's regulations, we have also received requests to revoke the orders covering: spherical plain bearings and parts thereof from France with respect to sales of this merchandise made by SKF France, ball bearings and parts thereof from Germany with respect to sales of this merchandise made by NTN Kugellagerfabrik (Deutschland) GmbH and GMN George Mueller Nurnberg, cylindrical roller bearings and parts thereof from Italy with respect to sales of this merchandise made by SKF Industrie S.p.A., ball bearings and parts thereof from Japan with respect to sales of this merchandise made by NTN Corporation and Honda Motor Co., Ltd., and cylindrical roller bearings and spherical plain bearings and parts thereof with respect to sales of this merchandise from Japan made by Honda Motor Co., Ltd. The requests are based on the firms' claims that there has been an absence of dumping on sales of the above subject merchandise for a period of three consecutive years.

Initiation of Reviews

In accordance with § 353.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping duty orders. We intend to issue the final results of these reviews no later than May 31, 1994.

Proceedings and firms	Class or kind
France	
A–427–801:	
Franke & Heydrich	Ball.
Hoesch Rothe Erde AG	Ball.
INA Roulements S.A	All.
Rollix Defontaine, S.A	Ball.
SKF France (including all relevant affiliates).	All.
SNFA	Ball & Cylindrical.
Societe Nouvelle de Roulements (SNR).	Ball & Cylindrical.
Societe Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA).	Ball & Cylindrical.
Germany	
A–428–801:	
FAG Kugelfischer Georg Schaefer KGaA.	All.
Fichtel & Sachs AG	Ball.
Franke & Heydrich KG	Ball.
Georg Mueller Numberg, AG. (GMN).	Ball.
Hoesch Rothe Erde AG	Ball.
INA Walzlager Schaeffler KG.	Ball & Cylindrical.
NTN Kugellagerfabrik (Deutschland) GmbH.	Ball.
Rollix & Defontaine, S.A	Ball.
SKF GmbH. (including all relevant affiliates).	All.
Italy	
A–475–801:	
FAG Italy	Ball & Cylindrical.
Meter, S.p.A	Ball & Cylindrical.
SKF-Industrie S.p.A. (including all relevant affiliates).	Ball & Cylindrical.
Societe Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA).	Ball & Cylindrical.
Japan	
A–588–804:	
Asahi Seiko Co., Ltd	Ball.
Fujino Iron Works Co., Ltd	Ball.
General Bearing Corp	All.
Honda Motor Co., Ltd	All.
Izumoto Seiko Co., Ltd	Ball.
Koyo Seiko Company, Ltd	All.
Nachi-Fujikoshi Corporation	Ball & Cylindrical.
Nankai Seiko Co., Ltd	Ball.
Nippon Pillow Block Sales Company, Ltd.	Ball.
Nippon Seiko K.K	All.
NTN Corp	All.
Peer International Japan	Ball & Cylindrical.
SST	All.
Takeshita Seiko Co., Ltd	Ball.
Tottori Yamakai Bearing	Ball.
Bearing Seisakusho Ltd	Ball.
Singapore	
A–559–801:	
NMB Singapore/Pelmec Ind.	Ball.
Sweden	
A–401–801:	
SKF Sverige (including all relevant affiliates).	Ball & Cylindrical.
Thailand	
A–549–801:	
NMB Thai/Pelmec Thai Ltd.	Ball.
United Kingdom	
A–412–801:	
Barden Corporation	Ball & Cylindrical.
FAG (U.K.) Ltd	Ball & Cylindrical.
NSK Bearings Europe, Ltd	Ball & Cylindrical.
Revolvo Ltd	Ball & Cylindrical.
RHP Bearings Ltd	Ball & Cylindrical.

Interested parties must submit applications for administrative protective orders in accordance with § 353.34(b) of the Department's regulations. However, due to the large number of parties to this proceeding, we strongly recommend that parties submit their APO applications as soon as possible, and we will process them on a first-come, first-serve basis.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c).

Dated: June 14, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–15150 Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–729–801]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Ferrosilicon From Egypt

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1756.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that ferrosilicon from Egypt is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation on February 1, 1993 (58 FR 24, February 8, 1993), the following events have occurred.

On February 11 and 18, 1993, the U.S. Embassy in Cairo informed us of the names and relevant history of the firms producing ferrosilicon in Egypt. According to the U.S. Embassy, the Egyptian Ferroalloy Company (EFACO) was the only producer exporting ferrosilicon to the United States.

On February 26, 1993, the International Trade Commission (ITC) notified us of its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of subject merchandise that is allegedly sold in the United States at less than fair value.

On March 5, 1993, we sent the Department's antidumping questionnaire to EFACO. On March 11, 1993, EFACO requested a two week extension for filing a response to Section A of the questionnaire. On March 15, 1993, we granted EFACO a two week extension. On March 25, 1993, EFACO requested an additional one week extension of time for filing the response to Section A of the questionnaire and a two week extension of time for filing the response to Sections B and C. On March 26, 1993, we granted EFACO the extensions it requested.

On March 30, 1993, EFACO notified the Department by letter that EFACO made no U.S. sales during the period of investigation (POI) (July 1, 1992 through December 31, 1992) and only modest U.S. sales in recent years. Therefore, EFACO stated that it would not be responding to the questionnaire.

On April 1, 1993, the Department notified EFACO that it was considering whether it would be appropriate to expand the POI to capture sales associated with shipments during the POI. At that time, EFACO, once again, informed the Department that it would not respond to the questionnaire.

On June 2, 1993, we received comments from petitioners discussing the use of BIA in making our preliminary determination.

Period of Investigation

The POI is July 1, 1992 through December 31, 1992.

Scope of Investigation

The product covered by this investigation is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

Ferrosilicon is a ferroalloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon.

Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this investigation. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon, and 28 to 32 percent calcium. Ferrocalcium silicon is a ferroalloy containing by weight not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferroalloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Best Information Available

On March 30, 1993, EFACO notified the Department by letter that it did not intend to respond to the Department's questionnaire. EFACO asserted that it made this decision because it had no U.S. sales during the six-month POI identified in the questionnaire, and only modest U.S. sales in recent years. According to information received from the U.S. Embassy in Cairo, however, EFACO had shipments to the United States during the POI. Thus, the Department tried to ascertain whether it would be appropriate to extend the POI to capture the sales associated with shipments during the POI. (See, Final Determination of No Sales at Less Than Fair Value: Ferrosilicon from Argentina (58 FR 88, May 10, 1993)) However, EFACO informed the Department in a telephone conversation that it would not respond to any sections of the questionnaire even if the Department were to expand the POI (*See*, April 1, 1993, memorandum from Shawn Thompson to the file.) Thus, EFACO did not submit a questionnaire response; accordingly, we are using BIA to calculate the margin for EFACO (*See* section 776(c) of the Act, and 19 CFR 353.37.)

As BIA, we are assigning the highest margin among the margins in the petition, in accordance with the two-tiered BIA methodology under which the Department imposes the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding, and as outlined in the Final Determinations of Sales at Less than Fair Value: Antifriction Bearings (other Than Tapered Roller Bearings and Parts Thereof from the Federal Republic of Germany, Italy, Japan, Romania, Sweden, Thailand, and the United Kingdom (54 FR 18992, 19033, May 3, 1989); and as upheld in *Krupp Stahl AG. et al* v. *U.S.*, Slip Op. 93–84 [CIT May 24, 1993]

Fair Value Comparisons

To determine whether sales of ferrosilicon from Egypt to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based U.S. price on BIA, which was information supplied by the petitioner. Petitioners based their estimate of USP on the U.S. f.o.b. import value of ferrosilicon imported from Egypt in June 1992. Petitioners stated that no adjustments to the estimated USP were made because no information was available.

Foreign Market Value

We based FMV on BIA, which was information supplied by the petitioner. Petitioners based their estimate of FMV on home market prices obtained from an Egyptian producer for subject merchandise sold during July through December 1992. Petitioners made no adjustments to the estimated FMV because they stated that they were unable to obtain information regarding transportation and packing costs.

Suspension of Liquidation

In accordance with section 733(d)(1) (19 U.S.C. 1673b(d)(1)) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of ferrosilicon from Egypt, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated margin amount by which the FMV of the subject merchandise exceeds the USP as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter:	Weighted average margin percent
The Egyptian Ferroalloy Company	90.50
All Others	90.50

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments must be submitted, in at least ten copies, to the Assistant Secretary for Import Administration no later than August 10, 1993, and rebuttal briefs no later than August 16, 1993. In addition, a public version and five copies should be submitted by the appropriate date if the submission contains business proprietary information. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held, if requested, at 9:30 a.m. on August 18, 1993, at the U.S. Department of Commerce, room 1412, 14th Street and Constitution Avenue NW., Washington DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099 within ten days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentation will be limited to arguments raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: June 21, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-15148 Filed 6-25-93; 8:45 am]

BILLING CODE 3510-DS-P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 93-051. *Applicant:* Southwest Missouri State University, 901 S. National, Springfield, MO 65804. *Instrument:* Dipole/Dipole Electromagnetic Surveying System, Model EM 34-3-XL/DL. *Manufacturer:* Geonics Limited, Canada. *Intended Use:* The instrument will be used in the courses Geology 590-Elements of Geophysics and Geology 572-Groundwater Hydrology to teach students how electromagnetic techniques are used to determine the electrical conductivity of the earth. *Application Received by Commissioner of Customs:* May 19, 1993.

Docket Number: 93-052. *Applicant:* University of Vermont, Burlington, VT 05405-0156. *Instrument:* (2) Sweeping Beam Optocators, Model S001 and (2) SS1 Interface Modules. *Manufacturer:* Selcom AB, Sweden. *Intended Use:* The instruments will be used to study how the thickness and cross-sectional area of soft connective tissues changes during tensile loading. In addition, these instruments will be used in engineering courses designed to give students a general background in the behavior and testing of materials. *Application Received by Commissioner of Customs:* May 19, 1993.

Docket Numbers: 93-053 and 93-054. *Applicant:* Columbia University in the City of New York, Department of Physics, 538 West 120th Street, P.O. Box 137, New York, NY 10027. *Instrument:* (10) High Voltage Power Supplies and (4) Multiwire Detectors. *Manufacturer:* IAS/CNR, Italy. *Intended Use:* The instruments are part of an x-ray detector for stellar observations that will be used to analyze the polarization of x-ray from stellar objects in order to gain knowledge on the activities of these stellar objects. In addition, the instruments will be used to obtain scientific data from the observations for use in the course High Energy Astrophysics. *Applications Received by Commissioner of Customs:* May 19, 1993.

Docket Number: 93-056. *Applicant:* Duke University, Department of Chemistry, PM Gross Chemical Laboratory, P.O. Box 90346, Durham, NC 27708-0346. *Instrument:* Mass Spectrometer, Model JMS-SX102A with Accessories. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used chiefly to identify and characterize synthetic and naturally occurring chemicals either prepared or isolated. Another use for the instrument will be to identify very small amounts of biochemical intermediates released in the body and to follow the chemical reactivity of compounds that are found in disease states of man. The instrument will also be used for educational purposes in chemistry courses. *Application Received by Commissioner of Customs:* May 21, 1993.

Docket Number: 93-058. *Applicant:* Louisiana State University and A&M College, School of Veterinary Medicine, Departments of Physiology, Pharmacology and Toxicology, S. Stadium Drive, Baton Rouge, LA 70803. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad 2+. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* The instrument will be used to analyze natural waters, biological tissues and tissue cellular extracts, soils and sediments, atmospheric particulates, etc. The experiments to be conducted will include:

(1) determination of the partitioning of major, minor and trace elements between the particulate, colloidal and dissolved phase in the Mississippi River and the plume in the Gulf of Mexico;

(2) assessment of the immunosuppressant activity of selected trace elements in catfish;

(3) investigation of the speciation of selected toxic metals in a poised redox system containing water and sediments;
(4) investigation of the bioavailability of sediment or colloid bound trace metals to aquatic organisms; and
(5) DNA binding of selected elements and the implications for DNA damage.

Application Received by Commissioner of Customs: May 24, 1993.

Docket Number: 93–060. *Applicant:* Tulane University, Department of Chemistry, New Orleans, LA 70118. *Instrument:* Coaxial Nanosecond Flashlamp, Model 5000F. *Manufacturer:* IBH Consultants Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of luminescent organic compounds and transition metal complexes to measure the luminescent lifetimes of these complexes. In addition, the instrument will be used in the training of graduate students, undergraduates pursuing research and postdoctoral associates. *Application Received by Commissioner of Customs:* June 2, 1993.

Docket Number: 93–061. *Applicant:* University of Wisconsin-Madison, Purchasing Services, 750 University Avenue, Madison, WI 53706–1490. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad PQ2+. *Manufacturer:* VG Elemental, United Kingdom. *Intended Use:* The instrument will be used to test water from Lake Michigan and Lake Superior and their tributaries for metals such as aluminum, cadmium, chromium, copper, lead and zinc. In addition, the instrument will be used to train graduate students to perform low level metals analyses and metals tests that may be needed to complete their graduate research and/or thesis requirements. *Application Received by Commissioner of Customs:* June 2, 1993.

Docket Number: 93–062. *Applicant:* University of Connecticut, Storrs, CT 06269–3060. *Instrument:* Electron Paramagnetic Resonance Spectrometer, Model ER300–10R/12. *Manufacturer:* Bruker Instruments, Inc., Germany. *Intended Use:* The instrument will be used for studies of catalysts, ceramics and polymers that contain paramagnetic centers to determine where unpaired electrons are located, what the local structure is around the unpaired electron(s) and whether these electrons are localized or delocalized. *Application Received by Commissioner of Customs:* June 4, 1993.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–15149 Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DS–F

International Trade Administration (A–583–820)

Antidumping Duty Order: Certain Helical Spring Lock Washers From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: William Crow, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230: (202) 482–0116.

Scope of Order

For purposes of this investigation, certain helical spring lock washers (HSLWs) are circular washers of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screw or bolts; and (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper. The lock washers subject to this investigation are currently classifiable under subheading 7318.21.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on May 3, 1993, the Department of Commerce (Department) made its final determination that certain helical spring lock washers from Taiwan are being sold at less than fair value (58 FR 27709 May 11, 1993). On June 21, 1993, in accordance with section 735(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department that an industry in the United States is threatened with material injury by reason of such imports. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act that, but for the suspension of liquidation of entries of certain helical spring lock washers from Taiwan, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 736(b)(2) applies. Therefore, all unliquidated entries or warehouse withdrawals, for consumption of certain helical spring lock washers from Taiwan made on or after June 25, 1993, the date on which the ITC proposes to publish its notice of final determination of threat of material injury, will be liable for the assessment of antidumping duties. The Department will direct U.S. Customs officers to terminate the suspension of liquidation for entries entered, or withdrawn from warehouse, for consumption before June 25, 1993, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

The Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of certain helical spring lock washers from Taiwan. These antidumping duties will be assessed on all unliquidated entries of certain helical spring lock washers from Taiwan entered, or withdrawn from warehouse, for consumption on or after June 25, 1993. U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties, the following cash deposits for the subject merchandise.

Manufacturers/producers/exporters:	Margin percentage
Spring Lake Enterprise Co., Ltd	31.93
Ceimiko Industrial Co., Ltd	31.93
Par Excellence Industrial Co., Ltd	31.93
All Others	31.93

This notice constitutes the antidumping duty order with respect to certain helical spring lock washers from Taiwan, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: June 23, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-15227 Filed 6-25-93; 8:45 am]

BILLING CODE 3510-DS-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Brazil

June 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: June 29, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 225 and 300/301 are being increased by recrediting unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 58 FR 14381, published on March 17, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 22, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 12, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1993 and extends through March 31, 1994.

Effective on June 29, 1993, you are directed to amend the directive dated March 12, 1993 to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Federative Republic of Brazil:

Category	Adjusted twelve-month limit [1]
Sublevels in the aggregate	
225	7,461,975 square meters.
300/301	6,070,089 kilograms.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-15153 Filed 6-25-93; 8:45 am]

BILLING CODE 3510-DR-F

New Transshipment Charges for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

June 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging transshipments to 1993 limits.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a notice published in the **Federal Register** on July 10, 1992 (57 FR 30725), CITA announced that Customs would be conducting other investigations of transshipments of textiles produced in China and exported to the United States. Based on these investigations, the U.S. Customs Service has determined that textile products in various categories, produced or manufactured in China and entered into the United States with the incorrect country of origin, were transshipped in circumvention of the U.S.-China Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 2, 1988, as amended. Consultations were held between the Governments of the United States and the People's Republic of China on this matter on June 7 through 9, 1993. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge the following amounts to the 1993 quota levels for the categories listed below:

Category	Amounts to be charged to 1993 limit
237	618 dozen.
239	101,822 kilograms.
334	2,019 dozen.
338-S	116,224 dozen.
339	7,480 dozen.
339-S [1]	24,945 dozen.
340	449 dozen.
345	22,495 dozen.
347	11,168 dozen.
348	15,835 dozen.
352	302,871 dozen.
359-C	1,257 kilograms.
361	152,269 numbers.
433	1,384 dozen.
634	159 dozen.
635	291 dozen.
636	840 dozen.
639	3,552 dozen.
641	10,798 dozen.
647	8,314 dozen.
648	5,301 dozen.
670-L	2,120 kilograms.
847	4,154 dozen.

[1] Charges to Category 339-S are in addition to those charges being made to Category 339.

U.S. Customs continues to conduct other investigations of such transshipments of textiles produced in China and exported to the United States. The charges resulting from these

investigations will be published in the Federal Register.

The U.S. Government is taking this action pursuant to the U.S. diplomatic note dated June 7, 1993, the U.S.-China bilateral textile agreement of February 2, 1988, as amended, and in conformity with Paragraph 16 of the Protocol of Extension and Article 8 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973 and extended on December 14, 1977, December 22, 1981, July 31, 1986 and December 9, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 57 FR 54976, published on November 23, 1992).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 22, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetble Fiber Textile Agreement of February 2, 1988, as amended, between the Governments of the United States and the People's Republic of China, I request that, effective on June 28, 1993, you charge the following amounts to the following categories for the 1993 restraint period (see directive dated December 23, 1992):

Category	Amount to be charged to 1993 limit
237	618 dozen.
239	101,822 kilograms.
334	2,019 dozen.
338–S [1]	116,224 dozen.
339	7,480 dozen.
339–S [2]	24,945 dozen.
340	449 dozen.
345	22,495 dozen.
347	11,168 dozen.
348	15,835 dozen.
352	302,871 dozen.
359–C [3]	1,257 kilograms.
361	152,269 numbers.
433	1,384 dozen.
634	159 dozen.
635	291 dozen.
636	840 dozen.
639	3,552 dozen.
641	10,798 dozen.
647	8,314 dozen.
648	5,301 dozen.
670–L [4]	2,120 kilograms.
847	4,154 dozen.

[1] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023.

[2] 9Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[4] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

This letter will be published in the Federal Register.

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 93–15157; Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

June 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: June 29, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6705. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 335/635 and 369–O are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 56328, published on November 27, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 22, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 20, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on June 29, 1993, you are directed to amend further the directive dated November 20, 1992 to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and India:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335/635	420,000 dozen.
369–O [2]	9,628,090 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 369–O: all HTS numbers except 5702.10.9020, 5702.49.1010, 5702.99.1010 (rugs exempt from the bilateral agreement); 6302.60.0010, 6302.91.0005, 6302.91.0045 (Category 369–D); and 6307.10.2005 (369–S).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–15151 Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Macau

June 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: June 29, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6709. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 49074, published on October 29, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 22, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 23, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on June 29, 1993, you are directed to amend further the directive dated October 23, 1992, to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Macau:

Category	Adjusted twelve-month limit [1]
Sublevels in Group I 333/334/335/833/834/835.	190,757 dozen of which not more than 104,584 dozen shall be in Categories 333/335/833/835.
338	249,753 dozen.
339	1,058,413 dozen.
340	235,098 dozen.
347/348/847	593,677 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–15152 Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Democratic Socialist Republic of Sri Lanka

June 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: July 1, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6708. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated May 23 and 24, 1988, as amended and extended, between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka establishes limits for the agreement period which begins on July 1, 1993 and extends through June 30, 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 22, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated May 23 and 24, 1988, as amended and extended, between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 1, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in Sri Lanka and exported during the twelve-month period beginning on July 1, 1993 and extending through June 30, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	227,498 dozen.
314	2,694,340 square meters.
331/631	2,194,185 dozen pairs.
333/633	42,824 dozen.
334/634	501,835 dozen.
335/835	220,808 dozen.
336/636/836	330,542 dozen.
338/339	1,003,669 dozen.
340/640	947,805 dozen of which not more than 322,253 dozen shall be in Categories 340–Y/640–Y [1].
341/641	1,575,000 dozen of which not more than 1,050,000 dozen shall be in Category 341 and not more than 1,050,000 dozen shall be in Category 641.

Category	Twelve-month restraint limit
342/642/842	521,908 dozen.
345/845	135,162 dozen.
347/348/847	1,052,548 dozen of which not more than 631,529 dozen shall be in Categories 347–T/348–T/847–T[2].
350/650	93,675 dozen.
351/651	250,025 dozen.
352/652	1,070,581 dozen.
359–C/659–C[3]	1,030,771 kilograms.
361	500,000 numbers.
363	9,702,135 numbers.
369–D[4]	728,411 kilograms.
369–S[5]	607,008 kilograms.
635	294,410 dozen.
638/639/838	715,193 dozen.
644	401,468 numbers.
645/646	160,587 dozen.
647/648	861,009 dozen.

[1] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0038, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.2030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.3022, 6112.11.0060, 6113.00.0042, 6117.90.0042, 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050; Category 847–T: only HTS numbers 6103.29.2044, 6103.49.3017, 6103.49.3024, 6104.29.2041, 6104.29.2045, 6104.69.3034, 6104.69.3038, 6112.19.2080, 6112.19.2090, 6117.90.0051, 6203.29.3046, 6203.49.3040, 6203.49.3045, 6204.29.4041, 6204.29.4047, 6204.69.3052, 6204.69.9044, 6211.20.3040, 6211.20.6040, 6211.39.0040, 6211.49.0040 and 6217.90.0070.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[5] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the periods July 1, 1992 through June 30, 1993 and January 27, 1993 through June 30, 1993 (Category 314) shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–15155 Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

June 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: June 29, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 482–6719. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 53885, published on November 13, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 22, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 6, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on June 29, 1993, you are directed to amend further the directive dated November 6, 1992, to reduce the limits for the following categories, as provided under the terms of the Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 18, 1990:

Category	Adjusted twelve-month limit[1]
Sublevels in Group I	
218	18,632,804 square meters.
225/317/326	33,008,144 square meters.
611	2,668,265 square meters.
619/620	12,138,923 square meters.
Within Group I subgroup	
361	1,188,685 numbers.
Sublevels in Group II	
331	484,878 dozen pairs.
338/339	716,100 dozen.
340	1,050,464 dozen.
631	4,390,286 dozen pairs.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–15154 Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of the Coverage of Part-Categories for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Various Countries

June 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending coverage of certain part-categories.

EFFECTIVE DATE: June 29, 1993.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

To facilitate the implementation of existing bilateral textile agreements and export visa arrangements based upon the Harmonized Tariff Schedule (HTS), for goods entered in the United States for consumption or withdrawn from warehouse for consumption on and after June 1, 1993, regardless of the date of export, certain HTS classification numbers for part-Categories 369–L and 670–L are being changed on all visa and certification arrangements and all import controls for countries with these part-categories. The changes contained below are being published in a supplement to the 1993 Harmonized Tariff Schedule.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54967, published on November 23, 1992).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 22, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which include wool and man-made fiber textile products in part-Categories 369–L and 670–L, produced or manufactured in various countries and entered in the United States for consumption on and after June 1, 1993, regardless of the date of export.

Also, this directive amends, but does not cancel, all directives issued to you which establish visa arrangements for part-Categories 369–L and 670–L for all countries for which visa arrangements are in place with the United States Government.

Effective on June 29, 1993, you are directed to make the changes shown below in the aforementioned directives for goods entered in the United States for consumption or withdrawn from warehouse for consumption on and after June 1, 1993, regardless of the date of export:

Category	Obsolete number	New number
369–L	4202.92.6000	4202.92.6090
670–L	4202.92.9020	4202.92.9025

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–15156 Filed 6–25–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement, Solid Waste Management Complex, Andersen AFB, Guam

The United States Air Force is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for the construction of a new solid waste management complex at Andersen AFB, Guam. The proposed complex is to include recycling, composting, and disposal facilities. The proposed disposal facilities would include separate landfills for asbestos, rubble (hardfill), and sanitary refuse.

Alternatives identified to date include seven alternate landfill sites on Andersen AFB, the existing Government of Guam landfill, a proposed Government of Guam waste-to-energy facility, a new DoD/Government of Guam landfill, capping and vertical expansion of the existing landfill, incineration on base, and no action.

The EIS will present the results of a screening of alternatives and examine environmental impacts of alternatives. Issues to be addressed in the EIS focus on, but are not limited to, groundwater quality, endangered species habitat, presence of Installation Restoration Program sites (requiring investigation and perhaps remediation prior to use as part of the proposed solid waste management complex), air quality, transportation systems, aesthetics and recreation.

The National Environmental Policy Act encourages agencies to conduct public scoping meetings to obtain input to assist in determining the nature, extent and scope of the issues and concerns to be addressed in the EIS. The Air Force has tentatively scheduled a public scoping meeting for July 1993. Notice of the exact time and place of the meeting will be published in the news media.

The United States Air Force invites comments and suggestions from all interested parties on the scope of the EIS. If concerned persons are not able to attend the scoping meeting, written comments and suggestions will be accepted. To assure the Air Force will have sufficient time to fully consider public inputs on issues, written comments should be mailed to ensure receipt no later than July 31, 1993. Comments or requests for further information concerning this EIS should be addressed to Mr. Roy N. Tsutsui, Chief, Environmental Flight, Andersen AFB, Guam, 633 CES/CEV, Bldg 18001,

Unit 14041, APO AP 96543–4041; Phone (671) 366–2101.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–15140 Filed 6–25–93; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by June 30, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Cary Green, Department of Education, 7th & D Streets, SW., room 4682, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public, and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an amendment to this notice.

Dated: June 22, 1993.

Joyce Smith,

Acting Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited

Title: Libraries Data Collection—Federal—State Cooperative System (FSCS) for the Collection of Data from Public Libraries and their Outlets, State Library Agencies and Public Library Administrative Entities.

Freqency: Annually

Affected Public: State or local governments

Reporting Burden:

Reponses: 51

Burden Hours: 1,530

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: FSCS is an annual census of over 9,000 public libraries and their outlets, state library agencies and public library administrative entities. Data for public libraries is aggregated at the state and national levels. Federal, state, and local officials use data for evaluation, planning, monitoring, budgeting, administration and policy. Other uses: librarians, researchers, business and educators. Respondents: State library agencies and District of Columbia.

Additional Information: An expedited review is requested because the materials to be submitted are time sensitive administrative records. According to guidelines of 5 CFR 1320.6 at least 30 days are required for respondents to provide their submission. In order to provide respondents with sufficient time a clearance date of June 30, 1993 is necessary.

[FR Doc. 93–15167 Filed 6–25–93; 8:45 am]

BILLING CODE 4000–01–M

Office of Educational Research and Improvement

Library Services and Construction Act: Intent To Repay Funds Recovered As a Result of a Final Audit Determination Issued to the Library of Michigan

AGENCY: Department of Education.

ACTION: Notice of Intent to Award Grantback Funds.

SUMMARY: Under section 459 of the General Education Provisions Act (GEPA) (20 U.S.C. 1234h) in effect in March 1991, the U.S. Secretary of Education (Secretary) intends to repay to the Library of Michigan (State Agency), under a grantback arrangement, an amount equal to 75 percent of funds recently recovered by the Department of Education (Department) as a result of a final audit determination issued by the Assistant Secretary for Educational Research and Improvement (Assistant Secretary) on March 25, 1991. The Department's recovery of funds followed an audit of the State Agency conducted pursuant to the Single Audit Act, 31 U.S.C. 7501 *et seq.* The final audit determination issued by the Assistant Secretary had sustained the auditor's questioning the use of $31,893 in Federal funds awarded under Title I of the Library Services and Construction Act, as amended (LSCA) (20 U.S.C. 351 *et seq.*). This notice describes the State Agency's plans for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available to the State Agency. This notice invites comments on the proposed grantback.

DATES: Comments should be received by the Department on or before July 28, 1993.

ADDRESSES: All written comments should be submitted to Mr. Robert Klassen, U.S. Department of Education, 555 New Jersey Avenue, NW., Suite 402, Washington, DC 20208–5571.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Klassen at (202) 219–1303. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

A. Background

The Department has recovered $31,893 from the Library of Michigan (State Agency) in response to claims arising from a federally mandated audit covering fiscal years (FYs) 1985 and 1986.

The claims involved the State Agency's administration of Title I of the LSCA. The final audit determination of the Assistant Secretary found that, during FYs 1985 and 1986, the State Agency had violated certain cost principles governing the use of Federal funds granted to State and local governments. These cost principles are contained in the U.S. Office of Management and Budget (OMB) Circular A–87, which during the audit period was restated in the Education Department General Administrative Regulations, appendix C to 34 CFR part 74. (These cost principles are now referenced by 34 CFR 80.22). A–87 forbids the allocation of joint costs, such as rent and salaries of persons performing both grant and non-grant activities, without an approved cost allocation plan. In addition, building space costs are allowable only with the approval of the Federal grantor agency. Further, grantee employees who divide their time between Federal and non-Federal objectives must keep accurate time distribution records.

The State Agency appealed the Assistant Secretary's determination to the Department's Office of Administrative Law Judges (OALJ) (Application of the Library of Michigan; Docket No: 90–79–R). Mediation proceedings conducted under OALJ oversight culminated in submission of additional evidence by the State Agency and a March 25, 1991 redetermination by the Assistant Secretary of the amount to be refunded as $31,893. A Repayment Agreement was executed on May 2, 1991. On May 6, 1991, the Library of Michigan paid $31,893 to the Department.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA (1988) provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the State Agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that:

(1) The practices and procedures of the State Agency that resulted in the final audit determination have been corrected, and that the State Agency is, in all other respects, in compliance with requirements of the applicable program;

(2) The State Agency has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of funds to be awarded under the grantback arrangement in accordance with the State Agency's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 459(a)(2) of GEPA, in its February 10, 1993, request for a grantback, the State agency submitted a plan for the proposed use of the requested funds. In its plan, the State proposes to use the grantback of $23,920 to extend and improve library services to areas of the State where they are inadequate, in compliance with section 102(a)(2)(A) of the LSCA. The grantback funds will be used to supplement current program activities by providing increased access to information and educational resources throughout Michigan and the nation. To that end, the State Agency's plan is to fund the placement of computer terminals in libraries within the State that do not have them, or to provide subscriptions to online databases for libraries that have computers. In particular, the plan will provide to small and rural libraries or libraries in economically depressed areas the opportunities and advantages of current technological innovations.

This application of the grantback funds would benefit the population that was affected by the repayment of the original audit findings. LSCA funds in the FYs 1985 and 1986 were used to expand and improve public library services and resource sharing that resulted from the Library of Michigan's networking and statewide library planning programs. Currently these statewide networking activities center on the use of technological innovations. The State Agency proposed to use grantback funds to purchase computers or computer terminals and subscriptions to online databases for the 18 percent of Michigan libraries that currently do not have access to regional and State bibliographic databases. These libraries are generally either small rural libraries or are located in economically depressed areas of the State. The Secretary's analysis of the proposed activities and the project budget indicates that the requested amount for the grantback award, which is the maximum amount permitted under section 459(a) of GEPA, is reasonable and necessary to the fulfillment of the proposed grantback project and is justified in the light of the enhancement of the statewide library network.

D. Secretary's Determination

The Secretary has reviewed the State Agency's request for the repayment of funds, the State Agency's plan (as outlined in Section C of this Notice), and other information submitted by the State Agency. Based upon that review, the Secretary has determined that the conditions contained in section 459 of GEPA have been met. This determination is based upon the best information available to the Secretary at the present time. If this information is at a later date discovered to have been inaccurate or incomplete, the Secretary will not be precluded from taking appropriate administrative action at that time. On finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendation or final audit determination.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least thirty days prior to entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Library of Michigan under a grantback arrangement, as authorized by section 459. The grantback award will be in the amount of $23,920. This amount is 75 percent—the maximum percentage authorized by section 459—of the amount of funds recovered by the Department under the terms of the Repayment Agreement in this case. The Secretary's intent to award the maximum amount of grantback funds possible under section 459 is based upon the determination outlined in Section D of this notice.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The State Agency agrees to comply with the following terms and conditions under which payments under a grantback arrangement will be made:

(1) The Library of Michigan will expend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements, including

those related to the purposes for which LSCA Title I funds may be used.

(b) The plan that was submitted in conjunction with the February 10, 1993, request for grantback, and any other amendments to that plan that are approved in advance of the grantback award by the Secretary.

(2) Pursuant to section 459(c) of GEPA, all funds received under this grantback arrangement must be obligated not later than September 10, 1994.

(3) The State Agency must, not later than January 1, 1995, submit a report to the Secretary that—

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated;

(c) Describes the results and effectiveness of the project for which the funds were spent; and

(d) Describes the consultation with representatives of the population that will benefit from the grantback payments.

(4) Separate accounting records must be maintained documenting the expenditure of funds under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.034: Library Services and Construction Act State-Administered Program.)

Dated: June 18, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93–15103 Filed 6–25–93; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

Availability of the 1992–93 National Defense, National Direct and Perkins Loan Programs Revised Directory of Designated Low-Income Schools

AGENCY: Department of Education.

ACTION: Notice of availability of the National Defense, National Direct and Perkins Loan Programs revised directory of designated low-income schools for teacher cancellation benefits for the 1992–93 school year.

SUMMARY: Institutions and borrowers participating in the National Defense, National Direct, and Federal Perkins Loan Programs and other interested persons are advised that they may obtain information regarding the National Defense, National Direct and Perkins Loan Programs Revised Directory of Designated Low-Income Schools for Teacher Cancellation Benefits for the 1992–93 School Year (Directory). The revised Directory reflects changes in the list of schools at which borrowers may be teaching to qualify for teacher cancellation benefits under each of the loan programs.

DATES: The revised Directory is currently available.

ADDRESSES: Information concerning specific schools listed in the revised Directory may be obtained from Ronald W. Allen, Systems Administration Branch, Campus-Based Programs Systems Division, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4621, ROB–3), Washington, DC 20202–5453. Telephone (202) 708–6730. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: The revised Directory is available at (1) each institution of higher education participating in the Federal Perkins Loan Program, (2) each of the fifty-seven (57) State and Territory Departments of Education, (3) each of the major Federal Perkins Loan billing services, and (4) the U.S. Department of Education.

SUPPLEMENTARY INFORMATION: The Secretary of Education published a notice in the **Federal Register** on November 19, 1992 (57 FR 54573) that the National Defense, National Direct and Perkins Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits for the 1992–93 School Year was available. The Secretary has revised the Directory due to changes in the authorizing legislation, additional schools becoming eligible, the opening and closing of schools, school name changes, and the need for other corrections. These changes are reflected in the revised Directory.

The procedures for selecting the schools that qualify borrowers for teacher cancellation benefits are described in the Federal Perkins Loan Program regulations at 34 CFR 674.53 and 674.54 and in section 465 of the Higher Education Act of 1965, as amended. The Directory has been revised to reflect the provision of the Higher Education Amendments of 1992 that the Secretary no longer is required to set a 50-percent restriction on the number of low-income institutions in a State receiving assistance under Chapter 1 for cancellation purposes for the Federal Perkins and National Direct Student Loan programs. The Secretary has determined that for the 1992–93 academic year, full-time teaching in any of the schools set forth in the Directory, as revised, qualifies a borrower for cancellation.

The Secretary is providing the revised Directory to each institution participating in the Federal Perkins Loan Program. Borrowers and other interested parties may check with their lending institutions, the appropriate State or Territory Department of Education, regional offices of the Department of Education, or the Office of Postsecondary Education of the Department of Education concerning the identity of qualifying schools for the 1992–93 academic year.

The Office of Postsecondary Education will retain, on a permanent basis, copies of all published amendments and revised Directories.

(Catalog of Federal Domestic Assistance Number 84.037; National Defense/Direct and Federal Perkins Student Loan Cancellations.)

Dated: June 18, 1993.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93–15104 Filed 6–25–93; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center, Financial Assistance Award; Grant Renewal

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of Noncompetitive Financial Assistance Renewal Award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i) Criteria (A), the DOE, Morgantown Energy Technology Center (METC) gives notice of its plans to award a grant renewal to the University of Colorado, Chemical Engineering Department, Campus Box 19, Boulder, Colorado 80309–0019, in the amount of approximately $193,494 and cover a twelve (12) month project period.

FOR FURTHER INFORMATION CONTACT: Beverly J. Harness, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4241. Procurement Request No. 21–93MC27115.501.

SUPPLEMENTARY INFORMATION: The pending award is based on a renewal application for continuing work necessary to the satisfactory completion of an activity presently being funded by DOE and for which competition for

support would have a significant adverse effect on continuity or completion of the activity. The grant is to provide financial assistance to the University of Colorado for conducting research focused on the development of an economical process to convert natural gas to higher value hydrocarbons utilizing catalytic technologies. By providing financial support, DOE expects to ultimately stimulate utilization of natural gas reserves by addressing serious information deficiencies that must be overcome to permit the smooth operation and expansion of domestic natural gas markets.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 93-15225 Filed 6-25-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP93-498-000]

ANR Pipeline Co.; Application

June 22, 1993.

Take notice that on June 17, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP93-498-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon two firm transportation services for Southern Natural Gas Company (Southern), authorized in Docket Nos. CP79-95 and CP80-119, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that ANR and Southern have agreed to terminate the transportation agreements dated November 10, 1978, and October 31, 1979, on file as ANR's Rate Schedule Nos. X-74 and X-106, respectively, under Original Volume No. 2 of ANR's FERC Gas Tariff. ANR states that the parties have agreed to replace the two transportation services with open-access transportation services under part 284 of the Commission's regulations. ANR requests that the abandonments of service be made effective on November 1, 1992, coincident with the effective date of ANR's interim settlement in Docket Nos. RP89-161, et al.

ANR explains that up to 8,484 Mcf of gas per day is transported under Rate Schedule X-74 from West Cameron Area Block 167, offshore Louisiana, to an interconnection with Southern in St. Mary Parish, Louisiana, and alternately, at the tailgate of the Superior Oil Company's Lowry Plant in Cameron Parish, Louisiana. ANR further states that up to 1,400 Mcf of gas per day is transported under Rate Schedule X-106 from Eugene Island Block 341, offshore Louisiana to St. Mary Parish, Louisiana (Shadyside).

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15081 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TX93-2-000]

City of Bedford, VA, City of Danville, VA, City of Martinsville, VA, Town of Richlands, VA, Blue Ridge Power Agency; Filing

June 22, 1993.

Take notice that on June 18, 1993, the Cities of Bedford, Danville and Martinsville, and the Town of Richlands, together with the Blue Ridge Power Agency filed an Application for Order Requiring Transmission Service to be provided by the operating companies of the American Electric Power Company, Inc. (AEP) System (collectively "AEP Companies"). The application has been filed pursuant to section 211 of the Federal Power Act, as amended by the Energy Policy Act of 1992 (16 U.S.C. 824j).

The applicants are partial requirements customers of AEP subsidiary Appalachian Power Company (APCo) and allege that AEP has refused to provide such services in connection with Blue Ridge Power Agency's purchase of term capacity and energy from PSI Energy, Inc. (PSI) under the Interchange Agreement between them.

Copies of the filing were served on American Electric Power Service Corporation, APCo, and PSI.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 26, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15072 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL93-47-000]

The Board of Public Works of the City of Lewes, DE, v. Delmarva Power and Light Co.; Filing

June 22, 1993.

Take notice that on June 11, 1993, The Board of Public Works of the City of

Lewes, Delaware tendered for filing a complaint against Delmarva Power and Light Company (DP&L) requesting that the Commission find DP&L has failed to fulfill its contractual obligations to Lewes, to order DP&L to act in accordance with those obligations, and to provide refunds for damages caused to Lewes by DP&L's failure to abide by its Settlement Agreement in FERC docket No. ER92–236–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 22, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to the complaint shall be due on or before July 22, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15078 Filed 6–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–477–000]

CNG Transmission Corp.; Application

June 22, 1993.

Take notice that on June 10, 1993, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP93–477–000 an application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the replacement of approximately 16.4 miles of its existing 12-inch deteriorated Line 9, with 8.8 miles of new 30-inch pipeline (designated TL–474 Extension 1), in Armstrong & Westmoreland Counties, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG states that about 8.8 miles of Line 9 will be removed (except at road and river crossings) between CNG's Kiski Gate and McIlwain Gate Stations and the TL–474 Extension 1 replacement pipeline will be placed in the same ditch. Further, CNG states that the remaining 7.6 miles of Line 9 to the South, between CNG's J. B. Tonkin Compressor Station and the Kiski Gate Station will be abandoned in place and ultimately used as a ground bed for the cathodic protection of a parallel pipeline, Line 19.

CNG states that construction of the proposed replacement facilities will cost an estimated $8,817,400 which will be financed from funds on hand or obtained from CNG's parent company, Consolidated Natural Gas Company.

According to CNG, Line 9, a 12-inch bare-metal pipeline, was constructed in 1944 with an original Maximum Allowable Operating Pressure (MAOP) of 1000 psig. To maintain compliance with Department of Transportation (DOT) regulations, CNG over the years had to derate this part of its system to an MAOP of 894 psig. Replacing deteriorated Line 9 will restore the operating capability of this portion of CNG's system, states CNG.

CNG states that it can effectively replace 16.4 miles of deteriorated, 12-inch, pipeline by replacing it with 8.8 miles of new, coated, 30-inch pipeline (TL–474 Extension 1). This not only allows CNG to enhance the integrity and safe operation of its system in its Central Division (and comply with DOT regulations), but, according to CNG, also enables CNG to increase the reliability of its pipeline system, for the benefit of all of its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CNG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15079 Filed 6–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–595–000]

Great Lakes Gas Transmission Limited Partnership; Site Visit

June 22, 1993.

On July 15, 1993, the staff of the Federal Energy Regulatory Commission will conduct a site visit of Great Lakes' proposed pipeline loop and alternatives in China Township, St. Clair County, Michigan.

For further information, contact Mr. Howard Wheeler at (202) 208–1237.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15071 Filed 6–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL93–46–000]

City of Hamilton, OH and American Municipal Power-Ohio, Inc. v. Kentucky Power Co. and Ohio Power Co.; Filing

June 22, 1993.

Take notice that on June 7, 1993, the City of Hamilton, Ohio (Hamilton) and American Power-Ohio, Inc. (AMP-Ohio) tendered for filing a Complaint against Kentucky Power Company (KPCO) and Ohio Power Company (OPCO) for a reduction in the loss adjustment factor being charged by the Companies for the transmission service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 13, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection. Answers to the complaint shall be due on or before July 13, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15080 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER93-513-002]

Idaho Power Co.; Filing

June 22, 1993.

Take notice that on June 16, 1993, Idaho Power Company (IPC) tendered for filing a revision of rates and a refund report in the above-referenced docket with regard to Clockum Transmission, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15074 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER93-715-000]

New England Power Service Co.; Filing

June 22, 1993.

Take notice that on June 16, 1993, New England Power Service Company (NEP) tendered for filing a Notice of Termination of NEP's transmission service to the Vermont Electric Generation and Transmission Coop (VEGT) for VEGT's entitlement in Northeast Utilities' gas turbine units.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15077 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2794-000]

James T. Rhodes; Filing

June 22, 1993.

Take notice that on May 28, 1993, James T. Rhodes (Applicant) tendered for filing an application under section 305(b) to hold the following positions:

Officer and Director—Virginia Electric and Power Company

Director—Nations Bank of Virginia

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 6, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15076 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP79-444-004, CP81-125-001, CP81-474-003, and CP82-499-002]

Tennessee Gas Pipeline Co.; Petition to Amend

June 22, 1993.

Take notice that on June 14, 1993, Tennessee Gas Pipeline Company (Tennessee), 1010 Milam Street, Houston, Texas 77002, filed with the Commission, pursuant to section 7 of the Natural Gas Act (NGA), a petition to amend orders issued in the above referenced dockets to eliminate restrictions on the transportation of natural gas for Chevron U.S.A. Inc. (Chevron-successor to Gulf Oil Corporation), all as more fully set forth in the application for amendment, which is open to the public for inspection.

Tennessee states that pursuant to Commission orders granted in the above referenced dockets [1] (as amended), Tennessee and other parties received authority to construct and operate the SP77 system, which extends from a South Pass Block 77, offshore Louisiana, platform to an onshore point in Plaquemines Parish, Louisiana. Chevron contributed a percentage of the construction and operation expenses in exchange for using the same percentage of the SP77 system's capacity to meet its warranty contract obligations to Texas Eastern Transmission Corporation (Texas Eastern).

Tennessee also states that the orders issued in the above referenced dockets restricted the natural gas volumes transported via the SP77 system by Tennessee and others for Gulf Oil to satisfying Chevron's warranty contract obligations to Texas Eastern. Chevron fulfilled its warranty contract obligations to Texas Eastern in November 1989, but Tennessee's transportation service restrictions still remain in effect. Tennessee, therefore, at Chevron's urging, proposes the removal of all restrictions on market destinations or use of Chevron's gas transported by Tennessee via the SP77 system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 13, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15082 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[1] See orders at 12 FERC ¶61,307 (1980); 16 FERC ¶61,054 (1981); 17 FERC ¶62,196 (1981); and 22 FERC ¶61,208 (1983), respectively.

[Docket No. CP93-499-000]

Transwestern Pipeline Co.; Request Under Blanket Authorization

June 22, 1993.

Take notice that on June 18, 1993, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP93-499-000 a request pursuant to § 157.205 of the Commission's Regulations for permission and approval to abandon a sales tap used to provide a direct sales service to Mr. Ray H. Ralston, a right-of-way grantor, located in Hansford County, Texas under Transwestern's blanket certificate issued in Docket No. CP82-534-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transwestern proposes to abandon a tap, side valve, and measurement facilities was previously used to provide a direct sales service to Mr. Ralston, a right-of-way grantor located in Hansford County, Texas. Transwestern states that it sold up to 7,700 dth per year to Mr. Ralston pursuant to a direct sales agreement dated June 5, 1978, with a primary term of twelve months. By letter dated April 14, 1993, Mr. Ralston advised Transwestern that he was no longer interested in receiving gas services from Transwestern and requested that Transwestern remove the metering facilities, it is indicated.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest if filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15073 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER93-676-000]

Wisconsin Power & Light Co., Filing

June 22, 1993.

Take notice that on June 10, 1993, Wisconsin Power & Light Company (WP&L) tendered for filing material inadvertently not included in their May 28, 1993 filing in the above-referenced docket. In addition, WP&L requests to withdraw their request for privileged treatment of the confidential agreement also filed on May 28, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-15075 Filed 6-25-93; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Final Power Allocations, 1994 Power Marketing Plan, Central Valley Project, California

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of the final allocation of 29.122 megawatts of power under the 1994 Power Marketing Plan.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy, hereby announces its final allocation of 29.122 megawatts (MW) of Central Valley Project (CVP) power under the 1994 Power Marketing Plan (Plan) published in 57 FR 45782, October 5, 1992. That notice announced the final allocation of 500.824 MW of power to existing customers and the proposed allocation of 29.122 MW of power.

The formal comment period on the proposed allocations ended on November 4, 1992, and a discussion of the comments received is included in this notice. After consideration of all the comments, Western has decided to finalize the proposed power allocations as announced in the October 5, 1992, notice.

DATES: Electric service contracts for the sale of the power allocated in this notice will be effective on the later of July 1, 1994, or when signed by both the customer and Western. Allottees will have 6 months to execute a contract with Western after the initial offer of a draft contract, unless otherwise agreed in writing by Western. Contracts entered into under the Plan will remain in effect until midnight of December 31, 2004.

FOR FURTHER INFORMATION CONTACT: James C. Feider, Area Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 105, Sacramento, CA 95825-1097, (916) 649-4418. All documentation made or retained by Western, including the environmental assessment and finding of no significant impact, for the purpose of developing the Plan and allocations, is available for inspection and copying at this address.

SUPPLEMENTARY INFORMATION:

Responses to Comments Regarding Proposed Power Allocations

Comment: Western received comments from allottees who generally expressed that while they would have desired a greater allocation of power, they appreciated the amount that they received.

Response: Western appreciates their supportive comments and looks forward to providing electric services.

Comment: The city of Avenal recommended that Western implement allocations to new customers as soon as possible; there is no purpose in waiting until July 1, 1994.

Response: Western announced in previous **Federal Register** notices regarding the Plan that electric service contracts for the sale of this power will be effective on the later of July 1, 1994, or when signed by Western and the customers. This was a condition of marketing power under this Plan. In addition, the 29.122 MW of power was originally marketed through June 30, 1994, and a portion of this power is under contract until then.

Comment: The cities of Alameda, Healdsburg, Lodi, Lompoc, Santa Clara, and Ukiah (Cities) suggested that Western market the 21 MW of Diversity Power (pro rata allocations) to the Cities (excluding Santa Clara) as soon as possible, since it would mitigate some of the impacts that have already occurred through withdrawals. The Cities also commented that by not marketing this power, Western is foregoing revenues that could assist in

the repayment of the CVP. Also, the Northern California Power Agency recommended that Western provide Diversity Power allocations on a "retroactive, priority basis" to those customers who have already experienced Westlands Withdrawals.

Response: Western originally marketed Diversity Power in 1982 to provide economic incentives for customers to shed load so Western could avoid exceeding the simultaneous load level limit and minimize the need to reduce Contract Rates of Delivery. Since that time, other arrangements have also been implemented to enable Western's Diversity Program to adequately protect the 1152 MW load level without the need to market additional Diversity Power. Western is concerned that marketing additional Diversity Power will stress the system because it will increase the energy requirements on the CVP and the number of times needed to shed load to maintain the load level. Western has, therefore, decided that it may market this power on a pro rata basis to those customers who may in the future lose a portion of their Long-Term Firm Power due to a withdrawal of Westlands Withdrawable Power. It will be marketed only in the event that withdrawals of Westlands Withdrawable Power cause undue hardship for Westlands Withdrawable customers.

Comment: The California Department of Corrections (CDC) was disappointed to learn that Western will not be marketing the additional Diversity Power. They commented that if the rainfall patterns return to normal, Western will most likely be in a position to market Diversity Power. They are, therefore, interested in contracting with Western for this power under a normal rainfall scenario. The CDC is also interested in obtaining power under an interruptible service arrangement and suggested that Western should take advantage of CDC's experience and willingness to explore all power marketing options.

Response: Western's rationale for marketing Diversity Power has been discussed above. Marketing interruptible service was not an option that was considered in the development of alternatives for the Plan. These types of marketing alternatives will be considered during the development of the 2004 Power Marketing Plan, which is scheduled to start in 1993.

Comment: The Maxwell Irrigation District requested that Western give the basis for the determination that they did not receive an allocation of power. Also, the Southern San Joaquin Municipal Utility District asked that Western reconsider a power allocation to them because they (1) qualify as a preference customer; (2) are a CVP water customer; and (3) are ready, willing, and able to receive power.

Response: There were approximately 30 applicants eligible to receive a share of the available 8.122 MW of Long-Term Firm Power. Western used the general allocation criteria listed in the Plan and exercised its discretion under Reclamation law in allocating this limited resource to the eligible applicants. Western regrets that there is not enough power to satisfy the requests of all the entities that qualified for an allocation.

Comment: The Pacific Gas and Electric Company (PG&E) advanced several comments. First, it argues that Western lacks the legal authority to allocate power to several proposed allottees. Assuming allocations are made, PG&E also questions whether under Contract 2948A it must wheel Western power to those allottees. Finally, PG&E expressed its concern that allocations under this marketing plan are beyond the capability of Western's generation system and may become PG&E's responsibility to plan for and serve. Western deals with each of PG&E's comments in turn.

Response: PG&E comments that Western is able to allocate power only to those publicly owned utilities that own or operate their own electric distribution systems over which they resell and deliver at retail the allocated preference power. In other words, PG&E argues that public agencies such as irrigation districts, Federal agencies, and State agencies are not preference customers, since it is possible that these publicly owned end-users might not own electric distribution systems and might not resell and deliver at retail the allocated Federal power.

Western acknowledges that several of the proposed allottees are not municipal utilities. PG&E's comment, however, contradicts Western's CVP allocation policy, as well as that of its predecessor, the Bureau of Reclamation. For years Western has allocated CVP power to irrigation districts, Federal agencies, and State agencies as preference customers.

Nonetheless, PG&E's legal arguments deserve careful study. PG&E argues, as a matter of law, that the Tenth Circuit decision in Salt Lake City, et al., v. Western Area Power Administration, et al., 926 F.2d 974 (10th Cir. 1991) shows that Western itself recognizes the rule that preference extends only to those public bodies which operate their own electric distribution system. PG&E misapplies the Tenth Circuit decision.

In the Salt Lake City case, Western adopted an allocation criteria that required that municipalities, to qualify for an allocation of Federal power, must have utility responsibility; i.e., that the municipality must operate its own utility system; Salt Lake City, at 977. Yet, in the same allocation process, Western also adopted an allocation criterion for Federal or State agencies with an ultimate consumer-type load. Western did not require utility responsibility for those entities. (Post-1989 Power Marketing and Allocation Criteria, 51 FR 4,844, 4,870 (February 7, 1986)) The plaintiffs in the Salt Lake City case did not challenge the distinction that Western drew between municipalities on the one hand, and Federal and State agencies on the other. Neither the district court nor the Tenth Circuit held, as a matter of law, that municipalities must have utility responsibility to qualify as preference customers. Rather, both courts held that Western's interpretation of Reclamation law, that municipalities under the Post-1989 General Power Marketing and Allocation Criteria must have utility responsibility to qualify as preference customers, was "fully reasonable." Salt Lake City, et al., v. Western Area Power Administration, et al., No. C 86-1000G (C.D. Utah April 14, 1988), 40; 1988 U.S. Dist. LEXIS 16822; Salt Lake City, at 978. For this reason, we cannot agree with PG&E's argument that the Salt Lake City decisions require Western to allocate preference power only to municipalities with utility responsibility, and to the exclusion of any other public agencies.

PG&E next argues that several court decisions interpreting a preference-type provision in the Niagara Redevelopment Act (NRA), 16 U.S.C. 836, require Western to apply that interpretation to the Reclamation Project Act of 1939 preference provisions in the present allocation process. For example, PG&E cites the Second Circuit interpretation of the term "public body" in the NRA, 16 U.S.C. 836(a)(1), to mean "publicly-owned entities that are capable of selling and distributing power directly to consumers of electricity at retail." Metropolitan Transportation Authority v. Federal Energy Regulatory Commission, 796 F.2d 584, 593 (2nd Cir. 1986). PG&E argues that this preference-type provision, and its interpretation by the Second Circuit, should be read in pari materia with what the Second Circuit considered to be the "standard 'federal-type' preference." (Id., at 592, n.7).

We agree with PG&E that Reclamation statutes, in general, are to be read in pari materia. However, the NRA is not a Reclamation statute. Its purpose is not to reclaim the semiarid and arid lands in the Western United States (section 1, Reclamation Act of 1902, 43 U.S.C. 391) but to utilize completely the United States rights to water in the Niagara River in New York State § 1, Niagara Redevelopment Act, 16 U.S.C. 836(a).

No court has interpreted Reclamation law in a manner that supports PG&E's position. Western's discretion in choosing each marketing plan's eligibility criteria and allocation criteria, therefore, the type of preference entities which are eligible to receive power, is "fully reasonable" and is entitled to deference. Salt Lake City, supra; see, City of Santa Clara v. Andrus, 572 F.2d 660, 666–668 (9th Cir. 1978), cert. denied sub. nom. Pacific Gas and Electric Company v. City of Santa Clara, 439 U.S. 859 (1978).

As for PG&E's wheeling argument, we agree that article 24(a) of Contract 2948A between Western and PG&E provides that a defined Western customer must have been a customer of PG&E on or before April 2, 1951; have monthly maximum demands of 500 kilowatts or more for 3 consecutive months of the immediately preceding 12 months; be located outside a municipality where PG&E serves at retail; and be located on PG&E's system in the area described in exhibit C to Contract 2948A. These conditions go to PG&E's obligations to provide transmission service under Contract 2948A, not to Western's authority to allocate power. Western notes that article 24(a)(1) states that these conditions apply "except as the parties [Western and PG&E] otherwise have agreed or may agree in writing," and also notes PG&E's commitment to provide transmission service to Western customers in a February 8, 1980, Memorandum of Understanding (MOU). There, PG&E agreed:

> to support an increase in [Western's] customer load level up to an additional 102 megawatts * * * made on bases or terms which are in accordance with Contract 2948A * * * provided that, to the extent a proposed allocation would be inconsistent with Contract 2948A, it will be considered under PG&E's Stanislaus Commitments.

(MOU, p.3) Of course, "PG&E has repeatedly acknowledged its obligation to provide transmission services under these Commitments." United States v. Pacific Gas and Electric Company, et al., 714 F. Supp. 1039, 1049 (N.D. Cal. 1989). Once Western exercises its discretion under law to make the final allocations, Western will, as it has in the past, negotiate with PG&E for any necessary wheeling services.

Finally, we respond to PG&E's comment that allocations under this marketing plan are beyond the capability of Western's generation system and may become PG&E's responsibility to plan for and serve. Western disagrees. PG&E has had time since 1980, when it agreed in the MOU to support a Western customer load level of 1,152 MW, to plan for that load level. Allocations under this plan do not increase the 1,152 MW load level; thus, Western perceives no increased planning or support burden falling on PG&E as a result of this marketing plan.

Comment: The Sacramento Municipal Utility District commented that marketing an additional 8.122 MW will necessitate more withdrawals from energy account #2 (EA2) except under wet hydrologic conditions. Western should avoid additional sales which trigger high cost capacity purchases and excess withdrawals from EA2.

Response: The 8.122 MW is part of the total 529.9 MW of power being marketed by Western under this Plan. Marketing the 8.122 MW may slightly increase Western's need to purchase energy, but will not trigger any additional capacity purchases. Hydrological conditions and customer load factors are conditions that impact purchases more significantly than the allocation of an additional 8.122 MW.

Final Power Allocations

The following final power allocations are made in accordance with the Plan published in 57 FR 45782, October 5, 1992. All of the allocations are subject to the execution of a contract in accordance with the Plan. If an allottee fails to execute a contract in accordance with the Plan, Western may offer the power to another eligible entity that submitted a request for an allocation under the Plan without further public process. Western may present a contract offer to new customers at any time after publication of this notice.

ALLOCATION OF 8.122 MW OF LONG-TERM FIRM POWER

Preference customer	Proposed allocation (MW)
Avenal, City of	.622
Bay Area Rapid Transit District	4.000
Cawelo Water District	.500
Lassen Municipal Utility District	3.000
Total	8.122

Allocation of 21 MW of Diversity Power

The 21 MW of Diversity Power that is presently not under contract will be reserved so that it may be offered on a pro rata basis to customers with an allocation of Westlands Withdrawable Power in the event that power is withdrawn. While Western prefers not to market the 21 MW of Diversity Power due to the adequacy of load management options in the present resource mix, Western will consider marketing this power if the withdrawal of Westlands Withdrawable Power causes undue hardship for Westlands Withdrawable Power customers.

The 21 MW of Diversity Power will not be available for marketing to Westlands Withdrawable customers until after June 30, 1994. In the event of a withdrawal of Westlands Withdrawable Power, and if Western determines that the withdrawal is causing undue hardship to Westlands Withdrawable customers, Western will at that time present a contract for the sale of this power to those customers for execution.

The following is a list of Westlands Withdrawable Power customers who would be offered an allocation of Diversity Power if Western presents a contract for execution.

Preference customers	Present westlands withdrawable power (MW)
Utility District:	
East Bay Municipal Utility District	1.051
Irrigation Districts:	
Delano-Earlimart	0.349
James	0.349
Kern Tulare	0.349
Lindsay-Strathmore	0.349
Lower Tule River	1.051
Modesto	5.960
Santa Clara Valley	0.349
Terra Bella	0.349
Turlock	1.751
Municipalities:	
City of Alameda	10.869
City of Healdsburg	1.751
City of Lodi	8.063
City of Lompoc	3.155
City of Ukiah	3.856
Total	39.601

Regulatory Procedure Requirements: Regulatory Flexibility Analysis, Determination Under Executive Order 12291, Environmental Compliance, and Paperwork Reduction Act of 1980 were addressed in 57 FR 45782, October 5, 1992; and apply to this **Federal Register** notice.

Issued in Golden, Colorado, March 1, 1993.
William H. Clagett,
Administrator.
[FR Doc. 93–15226 Filed 6–25–93; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4672–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.
DATES: Comments must be submitted on or before July 28, 1993.
FOR FURTHER INFORMATION, OR TO OBTAIN A COPY OF THIS ICR, CONTACT: Sandy Farmer at EPA, (202) 260–2740.
SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Notification of Substantial Risks Under section 8(e) of the Toxic Substances Control Act (TSCA). (EPA ICR No. 0794.05; OMB No. 2070–0046). This is a request for extension of the expiration date of a currently approved collection.

Abstract: Under section 8(e) of TSCA, chemical manufacturers, importers, processors, and distributors must immediately inform EPA when they obtain information which indicates that their product(s) may present a substantial risk of injury to health or the environment. The Agency estimates that 650 respondents will submit an initial TSCA section 8(e) report and 220 respondents will be involved in required follow-up/supplemental submission of information. The EPA and other Federal agencies use this information to determine and control chemical risks.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 21 hours per initial section 8(e) submission affecting 650 respondents, and 4 hours per follow-up/supplemental section 8(e) submission affecting 220 respondents. This estimate includes the time needed to review instructions, gather and submit the data needed, and complete and review the collection of information.

Respondents: Chemical manufacturers, importers, processors, and distributors.

Estimated No. of Respondents: 870.

Estimated No. of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 14,530 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street, SW., Washington, DC 20460.

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: June 18, 1993.
Paul Lapsley,
Director, Regulatory Management Division.
[FR Doc. 93–15134 Filed 6–25–93; 8:45 am]
BILLING CODE 6560–50–F

[FRL–4669–9]

Draft Acid Rain Permits Public Comment Period; Correction

AGENCY: Environmental Protection Agency (EPA).
ACTION: Correction.

SUMMARY: In notice document 93–13834 beginning on page 32667 in the issue of Friday, June 11, 1993, make the following correction:

On page 32667, in the third column, under **SUPPLEMENTARY INFORMATION**, after the last sentence in the first full paragraph for Kammer in West Virginia, the following two sentences should be added: EPA proposes to approve conditional reduced utilization plans for units 1, 2, and 3 as a means of compliance. The plans rely on energy conservation measures to account for underutilization.

On page 32669, in the second column, under **SUPPLEMENTARY INFORMATION**, after the last sentence in the paragraph for Walter C Beckjord in Ohio, the following two sentences should be added: EPA proposes to approve conditional reduced utilization plans for unit 5 and 6 as a means of compliance. The plans rely on energy conservation measures to account for underutilization.

Comments on the draft permits for Kammer in West Virginia and Walter C Beckjord in Ohio must be received no later than 30 days after the date of this notice or the publication date of the notice of these draft permits in local newspapers.
FOR FURTHER INFORMATION CONTACT: Mike Kalinoski at 202–233–9116.

Dated: June 15, 1993.
Brian J. McLean,
Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.
[FR Doc. 93–15133 Filed 6–25–93; 8:45 am]
BILLING CODE 6560–50–M

[FRL–4671–9]

TRC Environmental Services, American Management Systems, Inc., Omnisys Corporation; Transfer of Data to Contractor and Subcontractors

AGENCY: U.S. Environmental Protection Agency.
ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to the United States Environmental Protection Agency (EPA) under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA has contracted with TRC Environmental Services as a primary contractor, and American Management Systems, Inc. and Omnisys Corp. are serving as subcontractors to TRC Environmental Services to perform work for EPA Region I (Contract No. 68–W9–0003). In order to do this work, the subcontractors will be provided access to certain information submitted to EPA under CERCLA Section 104. Some of these materials may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to TRC Environmental Services, American Management Systems, Inc. and Omnisys Corp. consistent with the requirements of 40 CFR 2.310(h)(2). Access to this information by American Management Systems, Inc. and Omnisys Corp. is necessary for the performance of this contract.
DATES: Comments must be provided on or before July 5, 1993. The transfer of data submitted under CERCLA Section 104 and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the Federal Register.
ADDRESSES: Comments should be addressed to LeAnn Walls, U.S. Environmental Protection Agency,

Office of Regional Counsel, RCU, J.F.K. Federal Building, Boston, MA 02203, and should reference Sullivan's Ledge Superfund Site.

FOR FURTHER INFORMATION CONTACT:

LeAnn Walls, U.S. Environmental Protection Agency, Office of Regional Counsel, RCU, J.F.K. Federal Building, Boston, MA 02203, (617) 565–4891.

SUPPLEMENTARY INFORMATION: American Management Systems, Inc. and Omnisys Corp., as subcontractors through TRC Environmental Services, will be performing work for EPA Region I regarding the Sullivan's Ledge Superfund Site litigation, *U.S.* v. *Federal Pacific Electronics, Inc., et al.*, including document preparation for litigation (bate stamping of documents, preparation of a privilege list, microfilming documents and quality control of EPA's site files). This work will be performed by the subcontractors, American Management Systems, Inc. and Omnisys Corp. EPA Region I Waste Management Division has determined that, in order for the subcontractors to perform the work assigned, they will need access to information in EPA's files which has been claimed as CBI.

Pursuant to 40 CFR 2.310(h)(2), the contractor and subcontractors are legally required to safeguard this information from any unauthorized disclosure. In accordance with these regulations, EPA's contract with TRC Environmental Services and TRC Environmental Services' contract with American Management Systems, Inc. and Omnisys Corp. prohibits the use of the information for any purpose not specified in the contract, prohibits disclosure of the information in any form to a third party without prior written approval from EPA, and requires the return to EPA of all copies of the information upon request by EPA, whenever the information is no longer required by the contractor for the performance of the contract, or upon completion of the contract. Each employee of the contractor and subcontractors who will have access to the information has been or will be required to sign a written agreement honoring the terms specified in the contract, before they have access to any confidential information. Pursuant to 40 CFR 2.310(h)(2), EPA is providing notice and an opportunity to comment to affected parties who have submitted CBI regarding this Site. These parties have five (5) business days from the publication of this Notice in which to comment on the anticipated release of this information to EPA's contractor and subcontractors.

Dated: June 15, 1993.

Patricia L. Meaney,

Acting Regional Administrator.

[FR Doc. 93–15065 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4671–5]

Public Water Supervision Program: Program Revision for the Commonwealth of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commonwealth of Massachusetts is revising it's approved State Public Water Supervision Primacy Program. Massachusetts has adopted (1) drinking water regulations for filtration, disinfection, turbidity, Giardia lamblia, viruses, Legionella, and heterotrophic bacteria that correspond to the National Primacy Drinking Water Regulations for filtration, disinfection, turbidity, Giardia lamblia, viruses, Legionella, and heterotrophic bacteria requirements promulgated on June 29, 1989 (54 FR 27486). EPA has determined that the State program revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions. All interested parties are invited to request a public hearing. A request for a public hearing must be submitted by July 28, 1993, to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by July 28, 1993, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective July 28, 1993.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intended to submit at such hearing. (3) The signature of the individual making the request: or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m. Monday through Friday, at the following offices:

Massachusetts Department of Environmental Protection, Division of Water Supply, One Winter Street, Boston, MA 02108,
and
Regional Administrator, U.S. Environmental Protection Agency—Region I, JFK Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: J. Kevin Reilly, U.S. Environmental Protection Agency—Region I, Ground Water Management and Water Supply Branch, JFK Federal Building, Boston, MA 02203, Telephone: (617) 565–3619.

Section 1413 of the Safe Drinking Water Act, as amended (1986); and 40 CFR 142.10 of the National Primary Drinking Water Regulations.

Dated: March 26, 1993.

Paul Keough,

Acting Regional Administrator.

[FR Doc. 93–15132 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–50–P

[OPP–50756; FRL–4628–1]

Receipt of a Notification to Conduct Small-Scale Field Testing; Genetically-Altered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from AgriVirion Inc., of New York, a notification of intent to conduct a small-scale field test involving the genetically-altered (polyhedrin-minus) *Autographa californica* nuclear polyhedrosis virus (AcNPV). AgriVirion intends to test the pesticide on cabbage in New York. The target pest for these field trials is cabbage looper.

DATES: Written comments must be received on or before July 12, 1993.

ADDRESSES: Comments, in triplicate, should bear the docket control number OPP–50756 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as

"Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA, (703) 305–7690.

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to EPA's Statement of Policy entitled, "Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act," published in the **Federal Register** of June 26, 1986 (51 FR 23313), has been received from AgriVirion Inc. of New York. The purpose of the proposed testing is to evaluate the efficacy of the genetically-altered AcNPV under field conditions on cabbage in New York. The target pest for these field trials is cabbage looper. A 2-acre test site will be treated once this growing season; all treated crops will be destroyed.

Following the review of AgriVirion's application and any comments received in response to this Notice, EPA will decide whether or not an experimental use permit is required.

Dated: June 21, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–15131 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50764; FRL–4629–4]

Receipt of Notification to Conduct Small-Scale Testing of a Genetically Engineered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application from Sandoz Agro, Inc. of intent to conduct small-scale field testing of a genetically engineered microbial pesticide. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments must be received on or before July 28, 1993.

ADDRESSES: Comments in triplicate, must bear the docket control number OPP–50764 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–7690.

SUPPLEMENTARY INFORMATION: An application for an nonindigenous mircrobial pesticide (NMP) has been received from Sandoz Agro, Inc., Des Plaines, Illinois. This NMP application EPA file symbol is 55947–NMP–T. The proposed small-scale field trial will involve the introduction of two genetically modified strains of *Bacillus thuringiensis* (Bt). The host microorganisms or parent strains are EPA-registered *Bacillus thuringiensis kurstaki* strain [wild type A] and [wild type B]. This application proposes that a 2–year testing program be implemented. In 1993, the tests will be conducted only at the Sandoz Research Farm outside Greenville, Mississippi. The 1993 field tests will be conducted on 0.2 acre. The 1994 testing will be on less than 1.0 acre in California, Florida, and Mississippi. For the 1993 tests, a maximum of 20.6 British International Units (BIUs) (less than 3.42 x 10 spores) will be applied with a backpack sprayer. For the 1994 tests, a maximum of 112 BIUs (less than 1.86 x 10 spores) will be applied. All field trials will be conducted by Sandoz Product Developments personnel, and all treated crops will be tilled back into the soil following the field tests. Therefore, there is no reason to expect any adverse human health effects or environmental effects resulting from use of the genetically modified microorganisms since none have been documented for the parent strains used in commercially registered products or the cry 1 delta endotoxin which was transferred into the recipient strain.

Dated: June 21, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–15130 Filed 6–25–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. For further information contact Shoko B. Hair, Federal Communications Commission (202) 632–6934.

Federal Communications Commission

OMB Control No.: 3060–0553

Title: Amendments of the Part 69 Allocation of General Support Facility Costs.

Expiration Date: 05/31/94.

Description: In the Report and Order in the Matter of Amendment of the Part 69 Allocation of General Support Facility Costs, CC Docket No. 92–222, the Commission modified Section 69.307(b) of its rules to correct the misallocation of general support facility (GSF) investment and related expenses among the part 69 cost categories for local exchange carriers (LECs). The modified rule will eliminate the over-allocation of costs to access categories other than common line, including special access and switched transport,

thereby resulting in more cost-based pricing by the LECs. The Commission also concluded that LECs should be allowed to treat the reallocation of costs as exogenous under price cap regulation. These changes are to be reflected in tariffs to become effective on July 1, 1993. The tariffs implementing the rule modification are to be filed on 14 days notice.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-15125 Filed 6-25-93; 8:45 am]

BILLING CODE 6712-01-M

Comments Requested on Request for Waiver to Permit Operation of Part 15 Device in the Radio Navigation Band at 24.725 GHz

June 22, 1993.

On April 16, 1992, VORAD Safety Systems, Inc. (VORAD) asked the Commission to waive section 15.209 of its Rules to permit the operation of VORAD's vehicle detection and driver alert system (the T-200 Radar) in the aviation radionavigation band at 24.725 GHz. It appears that there are no existing or planned aviation services on this frequency.

The Request for Waiver is available for public inspection in the Technical Standards Branch of the Office of Engineering and Technology, room 7122, 2025 M Street, NW., Washington, DC. Comments on the Request for Waiver are invited and should be submitted on or before July 23, 1993, to the Chief Engineer, Federal Communications Commission, room 7122, Mail Stop 1300-B4, 2025 M Street NW., Washington, DC 20554.

The full text of the petition may also be purchased from the Commission's duplicating contractor: International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037, Telephone: (202) 857-3800.

For further information please contact George Harenberg at (202) 653-7314.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-15126 Filed 6-25-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

The Bank Holding Company, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 22, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Bank Holding Company, Griffin, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Spalding County, Griffin, Georgia.

2. Merchants & Farmers Bancshares, Inc., Eutaw, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Merchants & Farmers Bank of Greene County, Eutaw, Alabama.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Charter Bancorp, M.H.C., Sparta, Illinois; to become a bank holding company by acquiring at least 51 percent of the voting shares of Charter Bank, S.B., Sparta, Illinois, a proposed stock savings bank being formed to acquire substantially all of the assets and assume all the liabilities of Charter Bank, S.B., Sparta, Illinois, an existing mutual savings bank.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. BANKFIRST Corporation, Inc., Brookings, South Dakota; to acquire 100 percent of the voting shares of BANKFIRST, Minneapolis, Minnesota, a *de novo* bank.

2. Dakota Company, Inc., Minneapolis, Minnesota; South Dakota Bancorp, Inc., Minneapolis, Minnesota; and South Dakota Financial Bancorporation, Inc., Minneapolis, Minneosta; to acquire 100 percent of the voting shares of O'Neill Properties, Inc., Minneapolis, Minnesota, and thereby indirectly acquire First National Bank of O'Neill, O'Neill, Nebraska.

Board of Governors of the Federal Reserve System, June 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-15108 Filed 6-25-93; 8:45 am]

BILLING CODE 6210-01-F

Charles Hill Beaty, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Charles Hill Beaty, Gallatin, Tennessee; Charles Randolph Beaty, Portland, Tennessee; Helen June Beaty, Portland, Tennessee; and Montee Kittrell Beaty, Gallatin, Tennessee; to acquire as a group at least 25 percent of the voting shares of First Farmers Bancshares, Inc., Portland, Tennessee, and thereby indirectly acquire The Farmers Bank, Portland, Tennessee.

Board of Governors of the Federal Reserve System, June 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-15109 Filed 6-25-93; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

Environmental Impact Statement: Sacramento, CA

Notice of intent to prepare an environmental Impact Statement for a proposed U.S. Courthouse and Federal Building in Sacramento, California.

The General Services Administration (GSA) hereby gives notice that it intends to prepare an Environmental Impact Statement (EIS) in cooperation with the City of Sacramento (City) to disclose the environmental effects of constructing a proposed U.S. Courthouse and Federal Building in Sacramento, California. The proposed building initially would provide up to 380,088 occupiable square feet of courts and executive agencies space, with future expansion potential to a total of 510,000 occupiable square feet, and would be located on a full city-block site to be acquired from the City of Sacramento. The proposed site is bordered by H Street of the North, I Street to the South, 5th Street to the West, and 6th to the East. The EIS will be prepared in accordance with the National Environmental Policy Act (NEPA).

GSA invites interested individuals, organizations, and federal, state and local agencies to participate in defining the reasonable alternatives to be evaluated in the EIS and in identifying any significant social, economic, or environmental issues related to the alternatives. Scoping will be accomplished by correspondence and through a public meeting. The meeting is scheduled for July 8, 1993, from 2 p.m. to 6 p.m., at the John E. Moss Federal Building—U.S. Courthouse, 650 Capitol Mall, Sacramento, California. Comments received during the meeting will be made a part of the administrative record for the EIS will be evaluated as part of the scoping process.

Written comments on the scope of alternatives and potential impacts may be addressed to Mr. Lou Lopez, GSA Planning Staff (9PL), Public Buildings Service, 525 Market Street, San Francisco, California 94105, telephone number (415) 744–5253. Comments should be sent to GSA by July 16, 1993.

A Draft EIS will be prepared based upon the scoping efforts. After its publication, the Draft EIS will be available for public and agency review and comment. A Final EIS will be prepared that addresses the comments on the Draft EIS.

Dated: June 18, 1993.

Aki K. Nakao,

Acting Regional Administrator (9A).

[FR Doc. 93–15060 Filed 6–25–93; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3645; FR–3535–N–01]

National Manufactured Home Advisory Council; Open Meeting

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of open meeting.

SUMMARY: The National Manufactured Home Advisory Council is authorized by section 605 of the Housing and Community Development Act of 1974 (Pub. L. 93–383). This twenty-four member Council was created to provide the Department with an opportunity to obtain balanced views on manufactured home standards issues. The Act stipulates that one-third of the membership of the Council must be chosen from each of the following categories: (a) Consumer organizations and recognized consumer leaders; (b) the manufactured home industry and related groups, including at least one representative of small business; and (c) government agencies including Federal, State and local governments.

The Department is directed, to the extent feasible, to consult with this Advisory Council prior to establishing, amending, or revoking any manufactured home construction or safety standard of the Manufactured Home Construction and Safety Standards program. The Council's current Charter was approved on April 28, 1993.

DATES: July 13 and 14, 1993.

FOR FURTHER INFORMATION CONTACT: Maurice Gulledge, Special Assistant, Office of Manufactured Housing and Regulatory Functions, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW., Attn: Mail Room B–133, Washington, DC 20410, Telephone: (202) 755–7410. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Time and Place—The Advisory Council will meet on Tuesday July 13, 1993 and Wednesday July 14, 1993 starting at 8:30 a.m. The meetings will be all day and held in the HUD Departmental Conference Room, room 10235, 451 7th Street, SW., Washington, DC 20410. This is an open meeting.

Agenda

The Department plans to discuss the following proposed changes to the Manufactured Home Construction and Safety Standards with the Council: (1) Changes published in the **Federal Register** on February 24, 1992 as a proposed rule concerning energy, ventilation and referenced standards, pursuant to section 568 of the Housing and Community Development Act of 1987, (2) Changes published in the **Federal Register** on April 14, 1993 as a proposed rule concerning wind safety, and (3) A new proposed rule on hardboard siding that is under development to implement the requirements of section 907 of the Housing and Development Act of 1992.

Public Participation

These are open meetings. The public comment period on the proposed rule concerning energy, ventilation and referenced standards was closed in 1992, but the public comment period on the proposed rule concerning wind safety does not close until July 9, 1993. The public will have an opportunity to comment on the proposed rule on hardboard siding once it is published as a proposed rule in the **Federal Register**.

Dated: June 24, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 93–15281 Filed 6–25–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–03–4380–03]

Arizona: Long-Term Visitor Area Program for 1993–1994 and Subsequent Use Seasons; Revision to Existing Supplementary Rules, Yuma District, AZ, and California Desert District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of supplementary rule changes.

SUMMARY: The Bureau of Land Management (BLM) Yuma District and California Desert District announce revisions to the Long-Term Visitor Area Program. The program, which was instituted in 1983, established

designated long-term visitor areas and identified an annual long-term use season from September 15 to April 15. During the long-term use season, visitors who wish to camp on public lands in one location for extended periods must stay in the designated long-term visitor areas and purchase a long-term visitor area permit.

EFFECTIVE DATE: September 15, 1993.

FOR FURTHER INFORMATION CONTACT: Mark Lowans, Outdoor Recreation Planner, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, telephone (606) 726–6300; or John Butz, Outdoor Recreation Planner, California Desert District, 6221 Box Springs Boulevard, Riverside, California 92507–0714, telephone (909) 697–5394.

SUPPLEMENTARY INFORMATION: The purpose of the Long-Term Visitor Area Program is to provide areas for long-term, winter camping use. The sites designated as long-term visitor areas are, in most cases, the traditional use areas of long-term visitors. Designated sites were selected using criteria developed during the land management planning process, and environmental assessments were completed for each site location.

The program was established to safely and properly accommodate the increasing demand for long-term winter visitation and to provide natural resource protection through improved management of this use. The designation of long-term visitor areas assures that specific locations are available for long-term use year after year and that inappropriate areas are not used for extended periods.

Visitors may camp without a long-term visitor area permit outside of long-term visitor areas, on public lands not otherwise posted or closed to camping, for up to 14 days in any 28-day period. The Mule Mountain Long-Term Visitor Area is also open to short-term camping without a long-term visitor area permit for a period not to exceed 14 days.

Authority for the designation of long-term visitor areas is contained in title 43, Code of Federal Regulations, subpart 8372, sections 0–3 and 0–5(g). Authority for the establishment of a Long-Term Visitor Area Program is contained in title 43, Code of Federal Regulations, subpart 8372, section 1, and for the payment of fees in title 36, Code of Federal Regulations, subpart 71.

The authority for establishing supplementary rules is contained in title 43, subpart 8365, section 1–6. The long-term visitor area supplementary rules have been developed to meet the goals of individual resource management plans. These rules will be available in each local office having jurisdiction over the lands, sites, or facilities affected and will be posted near and/or within the lands, sites, or facilities affected. Violations of supplementary rules are punishable by fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

The following supplementary rule changes apply to designated long-term visitor area and are in addition to rules of conduct set forth in title 43, Code of Federal Regulations, subpart 8365, section 1–6.

A. Long-Term Permit

The special stipulations and supplemental rule changes for the Long-Term Permit are as follows:

1. Rule No. 9. Trash. Place all trash in designated receptacles. Public trash facilities are shown in the long-term visitor area brochure. Depositing trash or holding tank sewage in vault toilets is prohibited. A long-term visitor area permit is required for trash disposal within all long-term visitor area campgrounds except for the Imperial Dam and Mule Mountain Long-Term Visitor Areas.

2. Rule No. 10. Dumping. Absolutely no dumping of sewage or garbage on the ground. This includes motor oil and any other waste products. The changing of motor oil or vehicular fluids or disposal of these used substances within a long-term visitor area is strictly prohibited. Federal, State, and County sanitation laws and ordinances specifically forbid these practices. Sanitary dump station locations are shown in the long-term visitor area brochure. Dumping of gray water is prohibited unless otherwise posted. Long-term visitor area permits are required for dumping within all long-term visitor area campgrounds except for the Imperial Dam and Midland Long-Term Visitor Areas.

3. Rule No. 22. Wood Collection. No wood collection is permitted within the boundaries of Mule Mountain, Imperial Dam, and La Posa Long-Term Visitor Areas. Outside these long-term visitor areas and in all other long-term visitor areas, only dead and down wood may be collected for firewood or hobby purposes. Collection and possession of ironwood for hobby purposes is regulated to three pieces, not to exceed 10 pounds total in weight. A maximum of 50 pounds of natural firewood will be allowed per individual or group campfire site at any one time. Please contact the BLM for current regulations concerning collection.

B. Short-Visit Permit

The special stipulations and supplemental rule changes for the Short-Visit Permit are as follows:

1. Rule No. 9. Trash. Place all trash in designated receptacles. Public trash facilities are shown in the long-term visitor area brochure. Depositing trash or holding tank sewage in vault toilets is prohibited. As long-term visitor area permit is required for trash disposal within all long-term visitor area campgrounds except for the Imperial Dam and Mule Mountain Long-Term Visitor Areas.

2. Rule No. 10. Dumping. Absolutely no dumping of sewage or garbage on the ground. This includes motor oil and any other waste products. The changing of motor oil or vehicular fluids or disposal of these used substances within a long-term visitor area is strictly prohibited. Federal, State, and County sanitation laws and ordinances specifically forbid these practices. Sanitary dump station locations are shown in the long-term visitor area brochure. Dumping of gray water is prohibited unless otherwise posted. Long-term visitor area permits are required for dumping within all long-term visitor area campgrounds except for the Imperial Dam and Midland Long-Term Visitor Areas.

3. Rule No. 22. Wood Collection. No wood collection is permitted within the boundaries of Mule Mountain, Imperial Dam, and La Posa Long-Term Visitor Areas. Outside these long-term visitor areas and in all other long-term visitor areas, only dead and down wood may be collected for firewood or hobby purposes. Collection and possession of ironwood for hobby purposes is regulated to three pieces, not to exceed 10 pounds total in weight. A maximum of 50 pounds of natural firewood will be allowed per individual or group campfire site at any one time. Please contact the BLM for current regulations concerning collection.

All other stipulations as established on September 15, 1992, shall remain the same.

This Notice is published under the authority of title 43, Code of Federal Regulations, subpart 8365, section 1–6.

Dated: June 8, 1993.

Ed Hastey,

State Director, California.

Larry Bauer,

Acting State Director, Arizona.

[FR Doc. 93–15055 Filed 6–25–93; 8:45 am]

BILLING CODE 4310–32–M

National Park Service

Denali National Park and Preserve, Alaska; Concession Permit

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession permit authorizing continued flightseeing services for the public at Denali National Park and Preserve, Alaska, for a period of approximately five (5) years from the date of execution through December 1998.

EFFECTIVE DATE: August 27, 1993.

ADDRESSES: Interested parties should contact the Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755, to obtain a copy of the prospectus describing the requirements of the proposed permit.

SUPPLEMENTARY INFORMATION: This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1993, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in negotiation of a new permit, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: June 14, 1993.

John M. Morehead,

Regional Director.

[FR Doc. 93–15160 Filed 6–25–93; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 19, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 6, 1993.

Patrick Andrus,

Acting Chief of Registration, National Register.

Connecticut

Middlesex County

Bridge No. 1603 (Connecticut State Park and Forest Depression—Era Federal Work Relief Programs Structures TR), Devil's Hopyard Rd. (Rt. 434) over unnamed brook, Devil's Hopyard SP, Millington vicinity, 93000641

Bridge No. 1604 (Connecticut State Park and Forest Depression—Era Federal Work Relief Programs Structures TR), Devil's Hopyard Rd. (Rt. 434) over Muddy Brooks, Devil's Hopyard SP, Millington vicinity, 93000642

Bridge No. 1605 (Connecticut State Park and Forest Depression—Era Federal Work Relief Programs Structures TR), Devil's Hopyard Rd. (Rt. 434) over unnamed brook, Devil's Hopyard SP, Millington vicinity, 93000643

New Haven County

Bronson, Aaron, House, 846 Southford Rd., Southford, 93000656

Curtiss, Reuben, House, 1770 Bucks Hill Rd., Southford, 93000658

Hurd, William, House, 327 Hulls Hill Rd., Southford, 93000659

Hurley Road Historic District, 6 and 17 Hurley Rd., Southford, 93000662

Plaster House, 117 Plaster House Rd., Southford, 93000660

Sanford Road Historic District, 480 and 487 Sanford Rd., Southford, 93000657

Wheeler, Adin, House and Thornton F. Wheeler Wheelwright Shop, 125 Quaker Farms Rd., Southford, 93000661

New London County

Bridge No. 1860 (Connecticut State Park and Forest Depression—Era Federal Work Relief Programs Structures TR), Massapeag Side Rd. (Rt. 433) over Shantok Brook, Fort Shantok SP, Montville, 93000644

Tolland County

Hebron Center Historic District, Church, Gilead, Main, Wall and West Sts. and Marjorie Cir., Hebron, 93000649

Iowa

Crawford County

Dunham, Z.T., Pioneer Stock Farm, IA 37, 1 mi. NW of Dunlap, Dunlap vicinity, 93000652

Kossuth County

Dau, William C. and Hertha, House, 315 S. Dodge St., Algona, 93000654

Linn County

Whittier Friends Meeting House, Jct. of Co. Rds. E34 and X20, Whittier, 93000653

Van Buren County

Twombley, Voltaire, Building, 803 First St., Keosauqua, 93000655

Maine

Cumberland County

Manning, Richard, House, Raymond Cape Rd., W side, 0.3 mi. S of US 302, South Casco, 93000639

Hancock County

Duck Cove School, ME 46, E side, at jct. with Stubbs Brook Rd., Bucksport vicinity, 93000640

Knox County

Megunticook Golf Club, 212 Calderwood Ln., Rockport, 93000636

VICTORY CHIMES (Schooner), North End Shipyard, Rockland Harbor, Rockland, 93000637

Washington County

McCurdy Smokehouse, Water St., E side, at jct. with School St., Lubec, 93000638

Michigan

Wayne County

George, Edwin S., Building, 4612 Woodward Ave., Detroit, 93000651

Mississippi

Holmes County

West Historic District, Roughly bounded by Emory St., Anderson Ave. and Cross Sts. and the Illinois Central Gulf RR tracks, West, 93000646

Tennessee

Bledsoe County

Lincoln School, Old TN 28 near Rockford Rd., Pikeville, 93000648

Hamilton County

Model Electric Home, 1516 Sunset Rd., Chattanooga, 93000645

Wilson County

Smith, Warner Price Mumford, House, Address Restricted, Mount Juliet vicinity, 93000647

Wisconsin

Outagamie County

Courtney, J.B., Woolen Mills, 301 E. Water St., Appleton, 93000650

A proposed move is being considered for the following property:

New York

Suffolk County

House at 244 Park Avenue (Huntington Town MRA), 244 Park Ave., Huntington, 85002535

[FR Doc. 93–15159 Filed 6–25–93; 8:45 am]

BILLING CODE 4310–70–M

Solicitation of Nominations for the Preservation Technology and Training Board

AGENCY: Department of the Interior.

ACTION: Notice of nomination solicitation.

SUMMARY: The Secretary of the Interior is soliciting nominations to serve on the Preservation Technology and Training Board. The purpose of the Board is to provide advice and professional oversight to the Secretary and to the National Center for Preservation Technology and Training.

DATES: All nominations should be submitted on or before July 28, 1993.

ADDRESSES: Nominations should be sent to Secretary, Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Blaine Cliver, Preservation Assistance Division, National Park Service, (202) 343–9573. A copy of the Board's charter is available upon request.

SUPPLEMENTARY INFORMATION: Title IV of Public Law 102–575 established within the Department of the Interior a National Center for Preservation Technology and Training to be located at Northwestern State University in Natchitoches, Louisiana. In addition, title IV established a Preservation Technology and Training Board. The Board is to consist of the Secretary of the Interior, or his designee, and twelve members to be appointed by the Secretary. Of the twelve members to be appointed, six are to represent appropriate Federal, State, and local agencies, State and local historic preservation commissions, and other public and international organizations, and six are to be appointed on the basis of outstanding professional qualifications representing major organizations in the fields of archeology, architecture, conservation, curation, engineering, history, historic preservation, landscape architecture, planning, or preservation education. Appointments will be for 6-year terms, with initial terms staggered to foster continuity in membership. Through this notice, the Secretary is soliciting nominations from interested organizations or individuals for any of the appointments. All nominations should indicate for which category(s) the nominee is to be considered, and be accompanied by complete biographical and professional information, including home and business addresses and telephone numbers for each person recommended.

Dated: June 16, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–14998 Filed 6–25–93; 8:45 am]

BILLING CODE 4310–70–P

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PDT) on Tuesday, July 6, 1993, at the San Mateo City Council Chambers, San Mateo City Hall, 330 West 20th Avenue, San Mateo, California 94403. The Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

The main agenda item at this meeting will be a public hearing on the California Department of Transportation (Caltrans) plans for widening of California State Highway 92 from State Highway 35 (Skyline Boulevard) to Interstate Highway 280 in the vicinity of Crystal Springs Reservoir. The Caltrans plans for the widening were incorporated in an "Initial Study/ Environmental Assessment for Vehicle Lane Safety Improvements, Route 35 South to Interstate Route 280."

The project lies within the watershed of the San Francisco Water Department (SFWD). The Department of the Interior has Scenic and Scenic and Recreational Easements on the San Francisco Watershed lands in accordance with an agreement between the City and County of San Francisco and the Department of the Interior signed on January 15, 1969.

The Scenic and Recreation Easement was made the administrative responsibility of the Golden Gate National Recreation Area by Public Law 96–607 in December 1980. Both the founding legislation for the Golden Gate National Recreation Area and the Scenic and Recreational Easement emphasize preservation of the land, and the natural resources found there, in a natural condition.

Under provisions of the Easement, the approval of a representative of the Secretary of the Interior is required before certain actions can take place within the San Francisco Watershed, and consultation is required on certain other actions. The Scenic and Recreational Easement was granted to the federal government to protect the resources of the San Francisco Watershed in San Mateo County.

The meeting will also contain a Superintendent's Report.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the July 6 public meeting. Those not wishing to appear in person may submit written statements to the Superintendent of the Golden Gate National Recreation Area on the above-mentioned agenda item.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript will be available after July 27, 1993. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: June 18, 1993.

John D. Cherry,

Acting Regional Director, Western Region.

[FR Doc. 93–14997 Filed 6–25–93; 8:45 a.m.]

BILLING CODE 4310–70–P

Geological Survey

Advisory Committee on Water Data for Public Use

AGENCY: U.S. Department of the Interior.

ACTION: Notice of an open meeting of the Advisory Committee on Water Data for Public Use (ACWDPU).

SUMMARY: Notice is hereby given of a meeting of the ACWDPU. The theme of the meeting is "Implementation of the Water Information Coordination Program." The proposed agenda for the meeting includes presentations by Federal officials on the National Water Quality Assessment Program; the National Weather Service Modernization Program; the Intergovernmental Task Force on

Monitoring Water Quality (ITFM); the National Water Information Clearinghouse (NWIC); and other aspects of the Water Information Coordination Program, including water-information standards, methods, and data comparability. On Thursday, July 15, 1993, representatives of the ACWDPU will attend working groups that focus on issues related to the ITFM; Standards, Methods, and Data Comparability; and the NWIC. That afternoon, members of the ACWDPU will participate in the organizational meeting of the National Water Quality Assessment Council.

The ACWDPU consists of representatives of water-resources-oriented groups, including national, State, and regional organizations; Native Americans; professional and technical societies; public interest groups; private industry; and the academic community. Its principal responsibility is to advise the Federal Government, through the U.S. Department of the Interior, on activities and plans related to Federal water-information programs and the effectiveness of those programs in meeting the Nation's water-information needs. The Director of the U.S. Geological Survey (USGS) chairs the ACWDPU.

DATES: The meeting will convene at 9 a.m. on Wednesday, July 14, 1993, and will adjourn at 5:45 p.m. on Thursday, July 15, 1993.

ADDRESSES: Ramada Hotel Tysons Corner; 7801 Leesburg Pike; Falls Church, Virginia 22043. Take the Route 7 exit off the Capitol Beltway (Route 495) toward Falls Church.

FOR FURTHER INFORMATION CONTACT: Nancy Lopez, Chief, Office of Water Data Coordinating; 417 National Center; Reston, Virginia 22092. Telephone: (703) 648–5014; Fax: (703) 648–6802.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Tim has been set aside for public comment at 4:30 p.m., Wednesday, July 14, 1993. Persons wishing to make a brief presentation (up to 5 minutes) are asked to provided a written request with a description of the general subject area to Ms. Lopez no later than noon, July 12, 1993, to reserve space on the agenda. It is requested that 30 copies of a written statement for the record be submitted to Ms. Lopez at the time of the meeting for distribution to the members of the ACWDPU and for the official file. Any member of the public may submit written information and/or comments to Nancy Lopez for distribution to the ACWDPU.

Dated: June 21, 1993.

Dallas L. Peck,

Director.

[FR Doc. 93–15086 Filed 6–25–93; 8:45 am]

BILLING CODE 4310–31–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–625 (Final)]

Certain Helical Spring Lockwashers From Taiwan; Import Investigation

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured [3] or threatened with material injury [4] by reason of imports from Taiwan of certain helical spring lockwashers, provided for in subheading 7318.21.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 22, 1993, following a preliminary determination by the Department of Commerce that imports of certain helical spring lockwashers from Taiwan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 10, 1993 (58 FR 13280). The hearing was held in Washington, DC, on May 13, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 21, 1993. The views of the Commission are contained in USITC Publication 2651 (June 1993), entitled "Certain Helical Spring Lockwashers from Taiwan, Investigation No. 731–TA–625 (Final).

By order of the Commission.

Issued: June 23, 1993.

Paul R. Bardos

Acting Secretary.

[FR Doc. 93–15147 Filed 6–25–93; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Watson and Commissioner Nuzum dissenting. Commissioner Crawford did not participate in the determination.

[3] Commissioner Brunsdale determines that an industry in the United States is materially injured.

[4] Chairman Newquist and Commissioner Rohr determine that an industry in the United States is threatened with material injury.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Advanced Lead-Acid Battery Consortium

Notice is hereby given that, on June 2, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Advanced Lead-Acid Battery Consortium ("ALABC"), a discrete program of the International Lead Zinc Research Organization, Inc. ("ILZRO"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of two members to the ALABC. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the ALABC advised that written commitments to become members of the ALABC have been received from Hollingsworth & Vose Company, East Walpole, MA (originally listed as a verbal commitment) and Rheinische Zinkgesellschaft GmbH, Duisburg, Germany.

No other changes have been made in either the membership or planned activity of the ALABC. Membership in the ALABC remains open and the ALABC intends to file additional written notification disclosing any future changes in membership.

On June 15, 1992, the ALABC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 29, 1992, 57 FR 33522. The last notification was filed with the Department on March 4, 1992. A notice was published in the **Federal Register**

pursuant to section 6(b) of the Act on March 24, 1993, 58 FR 15882.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–15057 Filed 6–25–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, (38 FR 19029 March 29, 1984)), notice is hereby given that a proposed Consent Decree in *United States* v. *Louisiana-Pacific, Inc. and Kirby Forest Industries, Inc.*, Civil Action No. 93–0869 was lodged with the United States District Court for the Westner District of Louisiana on May 24, 1993.

The proposed Consent Decree requires the installation of improved pollution control devices at fourteen Louisiana-Pacific and Kirby Forest Industries' plants located in eleven States. The Decree would also require Defendants to conduct an environmental audit of all of their facilities and management and to employ corporate and plant environmental managers responsible for compliance with environmental statutes at their wood panel plants.

The Department of Justice will receive, for thirty (30) days from the date of publication of this notice, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Louisiana-Pacific, Inc. and Kirby Forest Industries, Inc.*, D.O.J. Ref. No. 90–5–2–1–1823.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 705 Jefferson Street, room 305, Lafayette, Louisiana, 70501; at the Region VI office of the U.S. Environmental Protection Agency, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G. Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $16.50 (25 cents per page reproduction charge) payable to Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–15058 Filed 6–25–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

BACKGROUND: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

LIST OF RECORDKEEPING/REPORTING REQUIREMENTS UNDER REVIEW: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/ reporting requirement

The title of the recordkeeping/reporting requirement

The OMB and/or Agency identification numbers, if applicable

How often the recordkeeping/reporting requirement is needed

Whether small businesses or organizations are affected

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent

The number of forms in the request for approval, if applicable

An abstract describing the need for and uses of the information collection

COMMENTS AND QUESTIONS: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills (202 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 (202 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Employment and Training Administration

Governor's Coordination and Special Services Plan (GCSSP)

Biennially

State or local governments

59 respondents; 50 hours per response; 1 response; 2,950 total hours

The GCSSP required by section 121(a) of JTPA, will provide the Department a general description of each State's plan for the operation of the JTPA program and its utilization of its JTPA resources.

Employment and Training Administration

State Job Training Plan

Biennially

State or local governments

15 respondents; 80 hours per response; 1,200 total hours

The Job Training Partnership Amendments (JTPA) of 1992 (Pub. L. 102–367, effective July 1, 1993), and 20 CFR 628.420 of the JTPA Interim Final Regulations published in the **Federal Register** on December 29, 1992, require State Job Training Plans for those States with a statewide JTPA program to provide information on the activities to be conducted and participants to be served by the State under JTPA.

Extension

Employment and Training Administration

Job Corps Health Questionnaire and Child Care Certification Form 1205–0033; ETA 6–53, 6–82

Form No.	Affected public	Respondents	Frequency	Per response
ETA 6–53	Individuals or households	103,000	One-time	12 minutes.

Form No.	Affected public	Respondents	Frequency	Per response
ETA 6–82 20,607 total hours	Individuals or households	309	One-time	1 minute.

The ETA 6–53 is used to obtain the health history of applicants for the program to determine medical eligibility. The applicant must not have a health condition which represents a potential serious hazard to the youth or others, results in a significant interference with the normal performance of duties, requires frequent, or expensive, or prolonged treatment. The ETA 6–82 is used to certify an applicant's child care arrangements.

Occupational Safety and Health Administration

1218–0048

Occupational Exposure to Noise

On Occasion

Businesses or other for-profit; Small businesses or organizations 1,328 respondents; .0798 hours per response; 107 total hours The purpose of the Occupational Exposure to Noise Standard and its collection requirement is to provide protection for employees from the adverse health effects associated with occupational exposure to noise. The standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the noise standard.

Signed at Washington, DC this 22nd day of June, 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–15091 Filed 6–25–93; 8:45 am]

BILLING CODE 4510–30–P

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 8, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 8, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 14th day of June, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Chevron U.S.A. Production Co. (Co) ..	Houston, TX	06/14/93	06/02/93	28,767	Law Dept.
Chevron U.S.A. Production Co. (Co) ..	New Orleans, LA	06/14/93	06/02/93	28,768	Law Dept.
Chevron U.S.A. Production Co. (Co) ..	Bakersfields, CA	06/14/93	06/02/93	28,769	Law Dept.
Mount Baker Plywood, Inc (Wkrs)	Bell, WA	06/14/93	05/28/93	28,770	Plywood.
General Motors, Inland Fisher (UAW) .	Trenton, NJ	06/14/93	05/06/93	28,771	Automotive hardware.
Hillin-Simon Oil Co (Wkrs)	Midland, TX	06/14/93	06/03/93	28,772	Oil and gas.
GCA (General Signal) (Wkrs)	Williston, VT	06/14/93	06/04/93	28,773	Steppers.
Exxon Chemical Co (IBT)	Linden, NJ	06/14/93	05/24/93	28,774	Polymers.
Cleo, Inc (Co)	Bloomington, IN	06/14/93	03/08/93	28,775	Gift wrap, tags and greeting cards.
Carboloy, Inc (UAW)	Warren, MI	06/14/93	06/02/93	28,776	Carbide cutting tools.
Beth Energy, Mine #33 (Co)	Edensburg, PA	06/14/93	06/06/93	28,777	Coal.
Barry Belt Inc (Wkrs)	Archbald, PA	06/14/93	06/03/93	28,778	Ladies' dresses.
American Airlines (Wkrs)	Tulsa, OK	06/14/93	05/18/93	28,779	Commercial air transportation.
Klerk's Plastic (Co)	Middlesex, NJ	06/14/93	06/04/93	28,780	Plastic floral packaging.
Villa Fashions, Inc (Wkrs)	Shenandoah, PA	06/14/93	06/14/93	28,781	Ladies' blazers.
Torch Operating (Wkrs)	Howna, LA	06/14/93	05/15/93	28,782	Oil and gas.
G.E.O., Inc (Co)	Casper, WY	06/14/93	05/24/93	28,783	Wellsite laboratories.

[FR Doc. 93–15094 Filed 6–25–93; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–28,471]

Laurel Metal Processing, Inc. Johnstown, PA; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated June 15, 1993, the company requested administrative reconsideration of the subject petition for trade adjustment assistance (TAA). The denial notice was signed on May 17, 1993 and published in the **Federal Register** on June 15, 1993 (58 FR 33122).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The subject workers perform a service (steel rod straightening and cutting operations) for Bethlehem Steel's Johnstown plant.

The subject workers were initially denied TAA in October, 1992 (TA–W–27,692) and more recently in May, 1993 (TA–W–28,471) because they did not produce an article within the meaning of the Trade Act of 1974. The Department has consistently determined that the performance of services does not constitute the production of an article and this determination has been upheld in the U.S. Court of Appeals.

Company officials at Laurel Metal state that their workers should be certified eligible to apply for TAA since the workers of the Bar, Rod & Wire Division of Bethlehem Steel Corporation, their parent firm, were recently certified for TAA, TA–W–27,118.

The investigation findings show that Bethlehem Steel is not the parent firm of Laurel Metal Processing. Laurel Metal Processing is an independent firm and is not affiliated or controlled by Bethlehem Steel Corporation, a condition necessary to obtain certification for an affiliate of another firm whose workers are already certified and which produces an article.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 18th day of June 1993.

Stephen A. Wander,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–5092 Filed 6–25–93; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–28,515]

Logic Sciences, Inc. Houston, TX; Termination of Investigation

Pursuant to section 223 of the Trade Act of 1974, an investigation was initiated on April 5, 1993 in response to a worker petition which was filed on behalf of workers at Logic Sciences, Inc., Houston, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 16th day of June 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–15093 Filed 6–25–93; 8:45 am]
BILLING CODE 4510–30–M

LEGAL SERVICES CORPORATION

Grant Awards for Migrant Alternative Dispute Resolution Proposals

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to award grants.

SUMMARY: The Legal Services Corporation hereby announces its intention to award four (4) one-time, non-recurring grants to legal services programs to fund demonstration projects that pilot alternative dispute resolution (ADR) programs as viable options to address labor and work-related disputes between U.S. migrant farmworkers and their employers. The Corporation plans to award grants as follows:

Farmworker Legal Services of New York: $74,329
Florida Rural Legal Services: $75,000
Texas Rural Legal Aid: $74,500
Western Nebraska Legal Services: $73,002

These one-time grants will be awarded pursuant to authority conferred by section 1006(a)(1)(B) of the Legal Services Corporation Act of 1974, (Act) as amended. This public notice is issued pursuant to section 1007(f) of the Act, with a request for comments and recommendations within a period of thirty (30) days from the date of publication of this notice. The grant award will not become effective and grant funds will not be distributed prior to expiration of this 30 day period.

DATES: All comments and recommendations must be received on or before the close of business on July 28, 1993, at the Office of Field Services, Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Leslie Q. Russell, Manager, Program Support & Technical Assistance Division, Office of Field Services, (202) 336–8824.

Date issued: June 22, 1993.

Charles T. Moses, III,

Deputy Director, Office of Field Services.

[FR Doc. 93–15045 Filed 6–25–93; 8:45 am]
BILLING CODE 7050–01–P

Grant Awards for Expansion and Development of Law School Civil Clinical Programs

AGENCY: Legal Services Corporation.

ACTION: Announcement of grant awards.

SUMMARY: The Legal Services Corporation (LSC/Corporation) hereby announces its intention to award grants to seventeen (17) law school clinical programs to assist LSC-eligible clients with their civil legal cases. Pursuant to the Corporation's announcement of funding availability on February 25, 1993, 58 FR 11425, a total of $1,253,000 will be awarded to the following schools:

Name of school	State	Amount
1. University of California/Berkeley.	CA	$50,000
2. University of Colorado.	CO	50,000
3. University of Denver.	CO	100,000
4. D.C. Law Students in Court Program.	DC	100,000
5. District of Columbia School of Law.	DC	87,500
6. Nova University ...	FL	68,875
7. Georgia State University.	GA	68,000

Name of school	State	Amount
8. Indiana University/ Bloomington.	IN	100,000
9. Indiana University/ Indianapolis.	IN	100,000
10. University of Chicago.	IL	75,898
11. Loyola University	LA	58,150
12. City University of New York (CUNY).	NY	44,000
13. State University of New York (SUNY).	NY	45,850
14. The Housing Advocates (Housing Advocates, Inc. and Cleveland State University, Cleveland-Marshall College of Law).	OH	98,150
15. Lewis and Clark College.	OR	89,745
16. Texas Southern University.	TX	80,000
17. Brigham Young University.	UT	36,832

These one-time, one-year grants are awarded under the authority conferred on LSC by section 1006(a)(1)(B) of the Legal Services Corporation Act of 1974, as amended (Act). This public notice is issued pursuant to section 1007(f) of the Act, with a request for comments and recommendations within a period of thirty (30) days from the date of publication of this notice. Grant awards will become effective and grant funds will be distributed upon the expiration of this 30 day public comment period.

DATES: All comments and recommendations must be received on or before the close of business on July 28, 1993, at the Office of Field Services, Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Leslie Q. Russell, Manager, Program Support and Technical Assistance Division, Office of Field Services, (202) 336–8908.

Date Issued: June 22, 1993.

Charles T. Moses, III,

Deputy Director, Office of Field Services.

[FR Doc. 93–15044 Filed 6–25–93; 8:45 am]

BILLING CODE 7050–01–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 93-5]

Cable Compulsory License; Major Television Market List

AGENCY: Copyright Office; Library of Congress.

ACTION: Notice of Inquiry.

SUMMARY: This Notice of Inquiry is issued to inform the public that the Copyright Office is considering the impact of the Federal Communications Commission's recent update of its major television market list, 47 CFR 76.51, on copyright liability under the cable compulsory license, 17 U.S.C. 111. The Office seeks comment on whether it should adhere to the update and what effect future updates may have on the operation of the compulsory license.

DATES: Comments should be received on or before August 27, 1993. Reply comments should be received on or before September 27, 1993.

ADDRESSES: Ten copies of written comments and reply comments should be addressed, if sent by mail, to: Library of Congress, Department 100, Washington, DC 20540. If delivered by hand, copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, room LM-407, 101 Independence Avenue, SE., Washington, DC 20559.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 707-8380.

SUPPLEMENTARY INFORMATION:

1. Background

The "Cable Television Consumer Protection and Competition Act of 1992" (1992 Cable Act) amends the Communications Act of 1934 by, *inter alia*, adding a new section 614 governing the cable carriage obligations for local commercial television stations. Section 614(f) requires that in adopting regulations to implement the new must-carry rules, such regulations "shall include necessary revisions to update section 76.51 of title 47 of the Code of Federal Regulations." Section 76.51 of title 47 is what is known as the major television market list. This list of the top 100 television markets is derived largely from Arbitron's 1970 prime time household rankings. The list was used to identify hyphenated markets and the communities identified with those markets, and had relevance to the carriage obligations of cable systems under the former FCC must-carry rules. With the invalidation of those rules in the *Quincy Cable T.V., Inc.* v. *FCC*, 768 F.2d 1434 (D.C. Cir. 1985), *cert. denied*, 476 U.S. 1169 (1986) and *Century Communications* v. *FCC*, 835 F.2d 292 (D.C. Cir. 1987), *cert. denied*, 486 U.S. 1032 (1988) cases, the major television market list no longer plays a role in the must-carry context.

On November 19, 1992, the Federal Communications Commission published a Notice of Proposed Rulemaking, MM Docket No. 92-259, in its proceeding to implement the must-carry and retransmission consent provisions of the 1992 Cable Act. In carrying out its obligation under section 614(f), the Commission observed that a congressionally mandated update of the major television market list was somewhat anomalous. The new statutory must-carry regime is based upon Arbitron's Area of Dominant Influence (ADI) list, and the major television market list has no bearing for must-carry or retransmission consent purposes. The legislative history to the 1992 Cable Act is silent as to the reason for updating the list, and the Commission concluded that "it appears that this [congressional] action would primarily affect copyright liability under the compulsory license." *Notice of Proposed Rulemaking*, para. 21.[1] The Commission sought comment from the Copyright Office directly on this provision.

On January 4, 1993, the Copyright Office filed its comments on the major television market list. The Office noted that this was not the first time it had considered the copyright impact of changes to the list. In 1987, the Copyright Office issued a policy decision in response to a Commission amendment of the list in 1985 which included Melbourne and Cocoa, Florida in the Orlando-Daytona Beach hyphenated market. *Policy Decision Concerning Federal Communications Commission Action Amending List of Major Television Markets*, 52 FR 28362 (1987). By adding Melbourne and Cocoa to the Orlando-Daytona Beach market, the Commission increased the must-carry obligations for cable systems serving Melbourne and Cocoa. The question which faced the Copyright Office was whether the transformation of Melbourne and Cocoa broadcast stations to must-carry signals in the hyphenated market affected their local/distant status under section 111 of the Copyright Act.

[1] The language requiring the FCC update to § 76.51 was offered by Rep. Bob McEwen (R-Ohio) as part of a package of amendments submitted to the House Rules Committee shortly before House approval of the 1992 Cable Act. No explanation accompanied the amendment, the only one offered by Congressman McEwen. While it is assumed by some that the language was offered for copyright purposes, the change to the major market list may in fact have been sought solely for communications purposes, such as expanding territorial exclusivity rights. It therefore cannot be definitively said that Congress sought to bring about a change in the copyright laws or the administration of the cable compulsory license through this provision.

The cable compulsory license requires cable operators with gross receipts over specified limits to calculate royalty payments, in part, on the basis of the number of broadcast stations which they carry beyond the local service area of those stations—i.e. distant signals. Section 111(f) defines the local service area of a broadcast station as "the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976"—i.e. the former FCC must-carry rules. The effect of this statutory provision is to freeze the 1976 must-carry rules for copyright purposes in determining when a particular broadcast station is a local or distant signal to a particular cable operator.[2]

Under the must-carry rules in effect on April 15, 1976, a cable operator would look to the major television market list, *inter alia*, for determining which television broadcast stations are subject to mandatory carriage. The issue which faced the Copyright Office after the 1985 Commission update was whether the addition of Melbourne and Cocoa was a change in must-carry obligations which, by virtue of the section 111(f) definition of the "local service area of a primary transmitter," would have an effect for copyright purposes.

The Office concluded that "signals entitled to mandatory carriage status under the FCC's former must-carry rules as a result of an FCC market redesignation order are to be treated as local signals for purposes of the cable compulsory license." 52 FR 28362, 28366 (1987). Melbourne and Cocoa were, therefore, considered a part of the Orlando-Daytona Beach hyphenated market for both copyright and communications purposes.

Although the Copyright Office followed the Commission's redesignation order for copyright purposes, its 1987 policy decision was specific to those circumstances. The Commission's 1985 amendment to the major market list only involved a redesignation of the Orlando-Daytona Beach market, and not a reordering of the markets. Reordering of markets has a direct impact on royalty rates paid for distant signals, as opposed to the renaming of markets which only affects the local/distant status of particular signals.[3] The Office did not have to consider the potential impact of reordering on the royalty pool. Furthermore, the parties submitting comments to the 1987 proceeding unanimously agreed that the redesignation of the Orlando-Daytona Beach market was not a change in the FCC's rules in effect on April 15, 1976, and that the Office should treat signals in the newly defined market as local for communications and copyright purposes. 52 FR at 28363.

Finally, the Copyright Office's 1987 decision was influenced in large part by the invalidation of the must-carry rules in the *Quincy* case. The Office stated:

> [T]he changes in the FCC's must-carry rules following the *Quincy* decision have essentially mooted the subject of this Notice. When this inquiry began the Copyright Office had concerns about enlargement of the class of local signals under the Copyright Act due to the approximately 400 petitions for market redesignation at the time pending at the FCC. However, it would appear that this policy concern is now eliminated because under the FCC's amended must-carry rules, the major market list is not determinative of must-carry status, and it is unlikely that a large number of market redesignations will be effected by the FCC in the future.

52 FR at 28366. In summary, the Copyright Office's decision was a tailored response to a very specific set of circumstances. The question now arises about the copyright impact of the Commission's most recent action and possible future actions.

On March 29, 1993, as part of its implementation of the must-carry and retransmission consent provisions of the 1992 Cable Act, the Commission issued its update of the § 76.51 major television market list. *Report and Order*, FCC 93-144 (March 29, 1993). Confirming its earlier announced belief that the changes to § 76.51 were copyright motivated as opposed to communications based, the Commission took a minimalist approach to updating the list:

> We do not believe that a major update of the § 76.51 market list is necessary on the basis of the record before us. Wholesale changes in or reranking the markets on the list would have significant implications for copyright liability and for the Commission's broadcast and cable program exclusivity rules. We are not prepared to make such changes on the present record.

Report and Order, para. 50. The Commission therefore made only three changes to the list: (1) renamed the Columbus, Ohio, market to include Chillicothe; (2) added New London to the Hartford-New Haven-New Britain-Waterbury, Connecticut market; and (3) changed the Atlanta, Georgia market to Atlanta-Rome. *Id.*

Although the Commission only made slight changes to the major television market list in its proceeding, it did not rule out the possibility of significant future changes. The approach is on a case-by-case basis in accordance with the Commission's normal rulemaking procedures:

> We will consider further revisions to this list on a case-by-case basis. Where appropriate, we will issue a notice of proposed rulemaking based on the submitted petition without first seeking public comment on whether we should do so. We will expect to receive evidence that demonstrates commonality between the proposed community to be added to a market designation and the market as a whole in such petitions. We will also consider requests to remove named communities from specific hyphenated markets using the same procedure.

Id.

The tone of the Commission's remarks suggests that it will once again actively entertain and rule upon petitions for changes in market designations, a practice that it abandoned after the *Quincy* decision. *See, also* para. 50, f.n. 150 (authorizing the Chief of the Mass Media Bureau to act on petitions for redesignation). Although the Commission confined its discussion to the renaming of markets, it has neither embraced nor ruled out the possibility of reordering markets. *See* para. 50 ("We are not prepared to make such changes on the present record."). It is therefore possible that future changes to the § 76.51 list may include both reranking and renaming, although probably in limited circumstances.

The Copyright Office is now considering the effect on the cable compulsory license of the Commission's three renamed markets, as well as the

[2] The April 15, 1976 must-carry rules are relevant to determination of the local/distant status of a broadcast signal. The Copyright Act also provides for an adjustment in royalty rates "[i]n the event that the rules and regulations of the [FCC] are amended * * * to permit the carriage of additional television broadcast signals beyond the local service area of such signals * * *." 17 U.S.C. 801(b)(2)(B). The Copyright Royalty Tribunal did adjust the rates in 1982 following the FCC's repeal of the syndicated exclusivity and distant signal carriage rules. *See Adjustment of the Royalty Rates for Cable Systems*, 47 FR 2146 (1982).

[3] The following is an example of how royalties would be affected by a market reordering. Cable system X carries three distant signals and is 55th on the current § 76.51 list. A cable system in the second fifty markets is permitted carriage of two distant signals under the FCC's former distant signal carriage rules. Cable system X therefore pays royalties for two of its distant signals at the lower cost base rate, and for the third signal at the higher rate of 3.75% of its gross receipts. If the Commission reorders the major television market list and cable system X is now located in the 45th largest market, under one reading of the applicable law and regulations, cable system X is entitled to carry three distant signals at the base rate. Cable system X therefore effectively reduces its royalty payments because it would no longer have to pay 3.75% of its gross receipts for carriage of the third distant signal.

expected impact of future redesignations and reordering. While the Office did incorporate the Commission's redesignations in 1987, the Office does not necessarily share the Commission's view that it has "traditionally" followed changes in the § 76.51 list, or that "Congress intended for our updated Section 76.51 list to be applied to assess copyright liability." *Report and Order* at para. 53-54. As noted above, the 1987 Copyright Office policy decision involved very specific circumstances, tempered by the then recent constitutional invalidation of the 1976 must-carry rules. Likewise, there is nothing in the 1992 Cable Act which either states or implies that the update to § 76.51 is motivated by copyright concerns. The Office therefore considers it prudent to seek public comment about the copyright implications of changes in the FCC's Major Television Market List. The Office invites general comment on renaming or reordering of the list, although the Office is inclined to maintain its 1987 Policy Decision regarding renaming of markets. Pending the conclusion of this proceeding, the Copyright Office will not question the designation of local signal status based on the FCC's action to rename one or more of the major markets.

In order to focus the direction of this inquiry, in addition to any general comments received, the Copyright Office requests the commentators to respond directly to the following questions.

(1) The section 111(f) definition of a "local service area of a primary transmitter" is defined as "the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976"—i.e. the 1976 must-carry rules. Is the amendment to the § 76.51 major television market list required by the 1992 Cable Act an amendment of the 1976 rules, or is it a separate and independent action of Congress? If it is an independent act with no bearing on the 1976 rules, under what statutory justification should the Copyright Office follow the present and future changes to the § 76.51 list?

(2) The FCC has stated its belief that "Congress intended for our updated § 76.51 list to be applied to assess copyright liability." What evidence is there in the 1992 Cable Act to support this contention?

(3) If the Copyright Office accepts the redesignations in Ohio, Connecticut, and Georgia for copyright purposes, should the Office accept any future redesignations? Should such acceptance be as a matter of course, or should it be on a case-by-case basis?

(4) If the Commission at some future date reranks markets on the list, and/or adds or subtracts markets, should the Copyright Office recognize these changes as applicable to the cable compulsory license? If so, in the situation where a reranking results in a cable system reducing its number of permitted distant signals, should the cable system be allowed to continue to carry the former permitted distant signal(s) on a grandfathered basis as a non-3.75% distant signal(s)?

Dated: June 18, 1993.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 93-15106 Filed 6-25-93; 8:45 am]

BILLING CODE 1410-08-F

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Preservation Meeting

Notice is hereby given that the National Archives Advisory Committee on Preservation will meet on September 14, 1993. The meeting will be held from 9 a.m. to 5 p.m. in Conference Room A, 601 Pennsylvania Avenue, Washington, DC.

The agenda for the meeting will be:

1. Aging characteristics of acetate-based media.
2. Nature and extent of records holdings on acetate.
3. Options for preventing degradation.
4. Storage options.
5. Reformatting.

This meeting is open to the public. For further information, contact Alan Calmes on (202) 208–7893.

Notice of the meeting is made in accordance with the Federal Advisory Committee Act.

Dated: June 21, 1993.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 93–15061 Filed 6–25–93; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that meetings of the following sections of the Dance Advisory Panel to the National Council on the Arts will be held as follows: Dance Company Grants Panel A on July 19–22, 1993 from 9 a.m.–8 p.m. and from 9:30 a.m.–12:30 p.m. on July 23, 1993; Dance Company Grants Panel B on July 24, 1993 from 10 a.m.–1 p.m. All meetings will be held in room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC.

A portion of the Dance Company Grants Panel A meeting will be open to the public on July 23, 1993 from 9:30 a.m.–12:30 p.m. The topics of discussion will include guidelines and policy.

The remaining portions of these meetings, on July 19–23, 1993 from 9 a.m.–8 p.m. and on July 24, 1993 from 10 a.m.–1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: June 21, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–15161 Filed 6–25–93; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Consolidated Application Pilot for Presenters Section) to the National Council on the Arts will be held on July 14–15, 1993, from 9 a.m.–6 p.m.. on July 14, 1993 and on July 15, 1993, from 9 a.m.–5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on July 15, 1993 from 2 p.m.–5 p.m. The topics will be policy and guidelines review.

The remaining portions of this meeting on July 14, 1993 from 9 a.m.–6 p.m. and July 15, 1993 from 9 a.m.–1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: June 21, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–15163 Filed 6–25–93; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Touring Initiatives Section) to the National Council on the Arts will be held on July 21, 1993, from 9 a.m.–5 p.m., in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC.

A portion of this meeting will be open to the public from 3 p.m.–5 p.m. The topics of discussion will include guidelines and policy.

The remaining portions of this meeting, from 9–3 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: June 21, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–15162 Filed 6–25–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems.

Dates and Times: July 14, 1993; 8:30 a.m.–5 p.m.

Place: Room 500E, 1110 Vermont Avenue, NW., Washington, DC.

Type of Meeting: Closed

Contact Person: Dr. Linton G. Salmon, Program Director, Solid State and Microstructures Program, Division of Electrical and Communications Systems, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: 202/357–9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the National Nanofabrication Users Facility Network proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: June 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–15143 Filed 6–25–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Networking and Communications Research

Dates and Times: July 22, 1993; 8:30 a.m. to 5 p.m.

Place: Room 416, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Mr. Daniel VanBelleghem, NSFNET Connection Program, National Science Foundation, room 416, Washington, DC 20550 (202 357–9717).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the NSFNET Connections Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals.

These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-15144 Filed 6-25-93; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-30266, License No. 30-23697-01E EA 93-067]

Innovative Weaponry, Inc., Albuquerque, NM; Order Modifying License (Effective Immediately)

I

Innovative Weaponry, Inc. (Licensee) is the holder of NRC License No. 30-23697-01E (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 32. The License authorizes the Licensee to distribute hydrogen-3 (tritium) in luminous gunsights, or weapons containing luminous gunsights, as specified in Condition No. 9 of the License, to persons exempt from the requirements for a license pursuant to § 30.19, 10 CFR part 30, or equivalent provisions of the regulations of any Agreement State. The License was issued on June 9, 1988, was most recently amended on November 20, 1991, and is due to expire on June 30, 1993.

II

On August 5, 1991, NRC Region IV staff conducted an inspection of the Licensee. During this inspection, a violation of NRC requirements for distribution of licensed materials was identified. A Notice of Violation was issued on September 16, 1991, for distribution of gunsights that were not authorized by the License. In addition, a confirmatory action letter (CAL) was issued on August 7, 1991, which confirmed the Licensee's agreement to cease distribution activities under the License and to apply for a license amendment authorizing distribution of gunsights not previously authorized by the license, within seven days of receipt of the CAL. License Amendment No. 03 was issued on November 20, 1991.

The NRC Region IV staff conducted an inspection of the Licensee on February 3, 1993. During this inspection, apparent violations of NRC requirements for distribution of licensed materials were identified, one of which is a repetitive violation, since it also occurred in 1991. Specifically, the Licensee was found to have distributed gunsights that had not been evaluated to determine if the devices meet the safety criteria established to allow exempt distribution. Once the devices are evaluated and registered by the NRC, they are licensed for exempt distribution.

Currently, License Condition No. 10 authorizes distribution of models RBI010 and SIC123 night sight configurations (inserts) only when mounted in sights permanently fixed on weapons. The inspection found that these inserts had been distributed without being mounted on weapons. On February 6, 1992, the Licensee had submitted a license amendment request to authorize installation of tritium inserts models RBI010 and SIC123 in steel gunsights manufactured by Millett Industries (or Millett Sights) without their being permanently mounted to a weapon. The Licensee failed to pay the amendment fee. The NRC notified the Licensee in a letter dated March 25, 1992, that in addition to the fees for the amendment request of February 6, 1992, an application fee was due for a device evaluation performed in conjunction with a prior license amendment request of August 8, 1991. The Licensee was advised that the pending application would be processed upon receipt of the fees. The Licensee failed to pay the fees and was notified by NRC letter dated August 4, 1992, that the NRC would consider the amendment request abandoned if a response was not received within 20 days. Subsequently, having had no response, the NRC advised the Licensee on September 28, 1992, that the NRC considered the February 6, 1992 amendment request to be abandoned. Subsequent to being notified that the request was considered abandoned, the Licensee distributed unauthorized gunsights containing tritium inserts that were not mounted on weapon as described above.

In addition, during an inspection at Millett Sights on January 11-12, 1993, and a visit at Colt's Manufacturing Company, Inc. on February 5, 1993, it was discovered that Millett and Colt's had received gunsights from the Licensee that were not permanently stamped with the radioisotope name and manufacturer's logo as required by License Condition No. 14.

III

Based on the above, the NRC has concluded that the Licensee has willfully violated NRC requirements. The violations of NRC requirements are particularly disturbing to the NRC, since the Licensee has broad authority for distribution and the License places significant responsibility on the Licensee to ensure activities are conducted in accordance with NRC requirements. Without the proper safety reviews of the devices by the NRC, the NRC has no assurance that these devices will not leak or that they can withstand normal or extreme operating environs to preclude release of radioactive materials to unrestricted areas or the environment. Thus, the protection of the public health and safety is not assured. As a result, the NRC negotiated a CAL with the Licensee. In the CAL, dated February 11, 1993, the Licensee agreed to certain actions, including that:

1. It would recall from its customers and cease further distribution of gunsight models: RBI010, SIC123, CGR030, and CGF003.

2. It would identify those gunsights listed in paragraph 1 above that it was unable to recover and the reasons why recovery is impossible.

3. By February 24, 1993, it would provide the NRC Region IV office with a written report listing each customer who received gunsights listed in paragraph 1 above, the dates of distribution, the quantity distributed, and the quantity that have been returned to it as of the date of its response.

The CAL provided that its issuance did not preclude the issuance of an order formalizing the above commitments or requiring other actions by the Licensee.

By letter dated February 22, 1993, the Licensee reaffirmed its commitment to cease distribution of the gunsights specified in the CAL. The Licensee also stated that it had issued a recall of these gunsights from two firms identified by the Licensee as the sole recipients of these products. Although the Licensee has not provided the exact number of gunsights subject to recall, a representative of Colt's Manufacturing Company reported to the NRC that approximately 80 sights were subject to the recall and the NRC staff believes the total gunsights to be recalled may be in the hundreds.

By letter dated March 15, 1993, the Licensee stated that it had received products returned from one of the two firms and was awaiting receipt of

products from the second. The Licensee reaffirmed that these two firms were the only ones that had received improperly distributed products. Since then, the Licensee has not provided any further information as required by the CAL.

I find that the Licensee's commitments as set forth in the letter of February 11, 1993, are still necessary. To date, the Licensee has not identified gunsights it is unable to recover and why recovery is impossible, nor has the Licensee provided the written reports described in the February 11, 1993, CAL, which it had agreed to provide by February 24, 1993. The Commission must be able to rely on its licensees to provide complete and accurate information in a timely manner. Although the NRC's investigation into the Licensee's activities is continuing, I further conclude that on multiple occasions the Licensee has distributed gunsights not authorized by its License, after prior enforcement action for such unauthorized distribution and after abandoning its request for authorization to do so, and also has distributed gunsights without proper labels.

In light of the Licensee's willful violations of regulatory requirements, the NRC cannot rely on the Licensee's commitments. Therefore, I lack reasonable assurance that the Licensee will comply with all Commission requirements in the future. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments in its February 11, 1993, letter be confirmed by this Order. In addition, because of the delays in ascertaining the exact number of gunsights that are to be recalled and their return to the Licensee, I have concluded that regular detailed reports on the progress of the return of gunsights to the Licensee are necessary to enable the NRC to properly monitor compliance with regulatory requirements. I have also concluded that with adherence to these commitments, the public health and safety will be reasonably assured. Pursuant to 10 CFR 2.202, I have also determined, based on the significance of the violations described above and the willfulness of the Licensee's actions, that the public health and safety require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 32, it is hereby ordered, effective immediately, that License No. 30–23697–01E is modified as follows:

1. The Licensee shall not distribute, and shall continue its efforts to recall from its customers, gunsights identified in confirmatory Action Letter (CAL 4–93–05) dated February 11, 1993, and any other gunsights that have been distributed in a manner not in compliance with the License; and

2. Within 15 days from the date of this Order, the Licensee shall provide a written report to the NRC Region IV office which updates the listing of each customer who received the subject gunsights, the dates of distribution, the quantity distributed, and the quantity that has been returned to the Licensee as of the date of the report. The above report shall continue to be submitted on a monthly basis until the requirement is rescinded in writing by the NRC Regional Administrator. Each report shall also discuss those actions taken since the last report to recover the subject gunsights and shall identify instances where the recovery of particular gunsights has been determined to be impossible and the reason(s) why.

If the Licensee is able to account for all of the subject gunsights, it may request termination of this monthly reporting requirement. Such a request shall be submitted in writing to the NRC Region IV office.

The Regional Administrator, Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee, in writing, of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on more suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 18th day of June 1993.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 93–15117 Filed 6–25–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Standard Form 113–A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44 U.S. Code chapter 35), this notice announces a request submitted to the Office of Management and Budget (OMB) for renewal of authority to collect data for the Monthly Report of Federal Civilian Employment (SF 113–A). The information that is collected monthly provides a timely count of Governmentwide employment, payroll, turnover, and employment ceiling-

related data. Uses of the data include monthly reporting to OMB and publishing the biomonthly Federal Civilian Workforce Statistics—Employment and Trends; answering data requests from the Congress, White House, other Federal agencies, the media, and the public; providing ceiling-related employment counts required by OMB; and serving as benchmark data for quality control of the Central Personnel Data File. The number of responding agencies is 130. The report is submitted 12 times a year. The total number of person-hours required to prepare and transmit the reports annually is estimated at 3,120. For copies of the clearance package, call C. Ronald Trueworthy, Agency Clearance Officer, on (703) 908–8550.

DATES: Comments on this proposal should be received within 30 days from date of this publication.

ADDRESSES: Send or deliver comments to: Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: May Eng, (202) 606–2684, U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Deputy Director.

[FR Doc. 93–15070 Filed 6–25–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 19536/ 811–4176]

Apollonius Institutional Investment Fund, Inc.; Application

June 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Apollonius Institutional Investment Fund, Inc. ("Applicant").

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on May 3, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 19, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Pustorino, Puglisi & Co., P.C., 515 Madison Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 272–3018, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation.)

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized as a corporation under the laws of Maryland, on December 18, 1984. On January 24, 1985, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933 and never made a public offering of its securities in the United States. Applicant's shares were privately placed outside the United States.

2. On March 24, 1993, the Applicant's Board of Directors, having received notice that the fund's largest institutional shareholder intended to redeem all of its shares of Applicant, approved the creation of a reserve account of $65,000 to cover reasonably anticipated expenses in the event the Board decided to liquidate and dissolve the Applicant. This reserve included accounts payable of approximately $35,000 which already accrued on the books of the Applicant.

3. On March 30, 1993, the institutional investor, whose holdings represented more than 99% of the Applicant's assets, redeemed all of its shares in the Applicant. The redemption price was $215.67 per share for 101,578 shares, for a total redemption price of $21,907,327.26. On the same day, all remaining shareholders redeemed their shares. These investors redeemed 122 shares at a price of $215.67 per share, for a total redemption price of approximately $26,311.74.

4. On April 6, 1993, the Board of Directors of applicant unanimously authorized and directed the proper officers of the Applicant to take any and all actions necessary to liquidate and dissolve the Applicant, including filing Articles of Dissolution with the Secretary of State of Maryland, and filing of this application.

5. As of the date of the filing of this application, Applicant has retained $28,216 in cash in the reserve established by the Board of Directors (after the payment of expenses in connection with Applicant's liquidation and dissolution.[1] The amount of the reserve will not be invested in securities.

6. The date, the expenses associated with the liquidation of Applicant that have been paid by Applicant have totalled approximately $8,300 consisting of legal and accounting expenses. The Applicant also anticipates paying approximately (a) $5,500 for miscellaneous expenses, including state filing fees, fees of a corporate agent, and accounting fees, and (b) a payment authorized by the Board of Directors in the amount of $20,000, to Cologne Capital Corporation for administrative and other non-advisory services to be provided in connection with the dissolution of Applicant. Applicant incurred no brokerage commission or other portfolio transaction costs in liquidating their portfolios securities because they were sold exclusively to dealers who make a market in the securities.

7. Applicant has no debts or liabilities outstanding as of the date of filing of this application other than the accounts payable for which funds have been placed in the reserve.

8. Applicant is not a part to any litigation or administrative proceeding. Applicant has no remaining shareholders and is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

[1] By letter dated June 15, 1993, applicant's counsel stated that the Board of Directors also authorized the distribution to shareholders of record on March 29, 1993 of any cash remaining in the reserve at the end of six months following the filing of this application.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-15135 Filed 6-25-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19539; 812-8212]

FFB Funds Trust, et al; Application

June 22, 1993.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: FFB Funds Trust (the "Trust"), including each series of the Trust (the "FFB Funds"), Furman Selz Incorporated (the "Administrator"), FFB Funds Distributor, Inc. (the "Distributor"), and First Fidelity Bank, N.A., New Jersey (the "Adviser").

RELEVANT ACT SECTIONS: Amended, conditional order requested under section 6(c) granting an exemption from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d), and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting certain open-end management investment companies to issue multiple classes of shares representing interests in the same portfolio of securities, and assess and, under certain circumstances, waive a contingent deferred sales charge ("CDSC") on certain redemptions of the shares.

FILING DATES: The application was filed on December 10, 1992, and amended on April 8, 1993. By letter dated June 11, 1993, applicants have agreed to make certain technical changes to the application, and to file an amendment prior to the issuance of any order granting the requested relief. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 19, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Trust, the Administrator, and the Distributor, 230 Park Avenue, New York, New York 10169. The Adviser, 765 Broad Street, Newark, New Jersey 07102.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504-2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. the complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. It is the successor to FFB Money Trust. The Trust currently consists of ten investment portfolios. The Adviser, a national bank, serves as the investment adviser to each of the FFB Funds. The Distributor is the distributor of each of the FFB Funds. The Administrator provides administrative services for the operation of the FFB Funds, including record maintenance and compliance monitoring, but does not provide transfer agency, accounting, or investment advisory services.

2. The Trust, on behalf of each of the FFB Funds, has adopted a distribution plan under rule 12b-1. Other Funds, as defined below, in the future also may adopt similar distribution plans. All such distribution plans will be adopted and implemented in compliance with Article III, Section 26 of the NASD's Rules of Fair Practice.

3. The Trust or its transfer agent may enter into shareholder servicing agreements with banks and financial institutions to provide various recordkeeping and administrative services to their customers who invest in shares of the FFB Funds. The services provided under such agreements augment and are not duplicative of the services to be provided to the Trust by the Administrator and the Distributor. No part of any service payment will constitute a "service fee" as defined in Section 26 of Article III of the NASD's Rules of Fair Practice.[1]

4. In 1991, the SEC issued an order, pursuant to which the FFB Funds may offer two classes of shares representing interests in the same portfolio.[2] This dual distribution system has not yet been implemented by the FFB Funds.

5. Applicants seek to amend the prior order to permit the Funds to issue a third class of shares representing interests in the same portfolio. The relief would also permit the Funds to assess and, under certain circumstances, waive a CDSC on certain redemptions of shares issued by them. Any order issued granting the requested relief will supersede and replace the Existing Order with respect to the Funds. Applicants request relief on behalf of themselves and any existing or future registered open-end management investment company for which the Administrator, or any entity controlled by or under common control with the Administrator, serves now or in the future as administrator, distributor, and/or principal underwriter (such existing and future investment companies, together with the FFB Funds, are collectively referred to herein as the "Funds").[3]

A. The Multi-Class Distribution System

1. Applicants propose to establish a distribution plan (the "Multi-Class Distribution System") enabling each Fund to issue and sell up to three classes of shares (herein referred to as Class A, Class B, and Class C).

2. Class A shares would be sold exclusively to institutional investors, and would be offered without a front-end sales load or CDSC. Class A shares may be offered subject to a distribution plan and/or a shareholder servicing plan. However, applicants currently do not intend to charge distribution plan or shareholder servicing plan fees in connection with Class A shares.

3. Class B shares would be sold to individual investors at net asset value plus a front-end sales load. The sales load does not apply to certain investors in accordance with rule 22d-1 under the Act. Class B shares may be subject to a distribution plan with a fee at an annual rate of up to .35% of the average daily net asset value of the Class B shares. Class B shares may also be subject to a shareholder servicing plan

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[1] The Division of Investment Management is not evaluating and takes no position as to whether any fees charged for services provided under a shareholder servicing plan would be considered "service fees" as defined in article III, section 26 of the NASD's Rules of Fair Practice.

[2] Investment Company Act Release Nos. 18166 (May 24, 1991) (notice) and 18209 (June 20, 1991) (order).

[3] Only the named applicants currently intend to rely on any order granting the requested relief. Other existing or future Funds that decide to offer multiple classes of shares and/or impose a CDSC will do so in accordance with the representations and conditions of the requested order.

with a fee at an annual rate of up to .35% of the average daily net asset value of the Class B shares.

4. Class C shares would be sold to individual investors at net asset value, subject to a CDSC, as described below. Class C shares may be subject to a distribution plan with a fee at an annual rate up to 1.0% of the average daily net asset value of the Class C shares. Such fee would include a service fee of up to .25% per annum of the average daily net asset value of the Class C shares. Class C shares also may be subject to a shareholder servicing plan with a fee at an annual rate of up to .35% of the average daily net asset value of the Class C shares.

5. Class C shares automatically would convert to Class B shares of a Fund on the first business day of the month in which the sixth anniversary of the issuance of such shares occurs. Shares purchased through the reimbursement of dividends and other distributions paid in respect of Class C shares also would be Class C shares, but would be considered held in a sub-account for purposes of conversion. Each time Class C shares that are not held in a sub-account convert to Class B, a *pro rata* portion of the shares in the sub-account would also convert to Class B. The conversion feature may be subject to the continuing availability of an opinion of counsel, ruling by the Internal Revenue Service, or other assurances acceptable to the Fund that such conversion does not constitute a taxable event under the Internal Revenue Code of 1986, as amended (the "Code"). If such assurances are not available, the Fund may suspend the conversion feature.

6. All expenses borne by a Fund would be borne *pro rata* by each class based on the relative net asset value of the respective classes, except for class expenses (as described in condition 1 below). Because of the class expenses that may be borne by a class of shares, the net income of (and dividends payable to) such class may be different form the net income of another class of shares of the same Fund. Dividends paid to each class of shares in a Fund will, however, be declared and paid on the same days and at the same time, and except as affected by the class expenses, will be determined in the same manner and paid in the same amounts. To ensure that the net asset value per share of all shares of a daily dividend Fund remains the same regardless of variations in daily net income, no class will bear any class expense that would cause its accrued expenses to exceed its allocated gross income on any given day.

7. Each class of shares may be exchanged only for shares of the same class in another Fund, except that Class B and Class C shares will also be exchangeable for shares of the FFB money market funds for which Class B and Class C shares do not exist. All exchanges will be effected in accordance with the provisions of rule 11a–3.

B. The CDSC

1. Applicants propose to assess a CDSC, payable to the Distributor, on redemptions of the Class C shares made within a specified period (ranging from one to six years) after purchase. The CDSC will be calculated as the lesser of the amount that represents a specified percentage of the net asset value of the shares at the time of purchase, or at the time of redemption. The amount of the CDSC would typically range from 1% to 4% (but could be higher or lower) on shares redeemed during the first year after purchase and typically would be reduced during the CDSC period so that redemptions on shares held after the CDSC period would not be subject to the CDSC.

2. No CDSC will be imposed on shares issued prior to any order granting the requested relief. No CDSC will be imposed on redemptions of shares derived from the reinvestment of distributions, or an amount representing an increase resulting from capital appreciation above the amount paid for the shares.

3. In determining the applicability and rate of any CDSC, it will be assumed that a redemption is made first of shares representing capital appreciation, next of shares representing reinvestment of dividends and capital gain distributions, and finally of other shares held by the shareholder for the longest period of time. In addition, unless the shareholder elects otherwise, redemption requests placed by a shareholder owning Class B and Class C shares will be satisfied first by redeeming the Class B shares, then by redeeming the Class C shares.

4. The Funds propose to waive the CDSC (a) on redemptions made within one year following the death or disability of a shareholder, and on redemptions from trust accounts made within one year following the death or disability of the beneficiary, or of the grantor, trustee, or other fiduciary; (b) in connection with (i) a lumped sum or other distribution following retirement, or, in the case of an individual retirement account ("IRA"), Keogh Plan, or custodial account pursuant to section 403(b)(7) of the Code, after the shareholder has attained age 59½, or any redemption resulting from a tax-free return of an excess contribution pursuant to section 408(d) (4) or (5) of the Code, or from the death or disability of the employee, or (ii) in the alternative, in connection with a distribution following retirement under a tax-deferred retirement plan, or attaining age 70½ in the case of an IRA, Keogh Plan, or custodial account pursuant to section 403(b) of the Code, or resulting from the tax-free return of an excess contribution to an IRA; (c) on redemptions of shares purchased by active or retired officers, directors or trustees, and employees of the Funds, the adviser, the distributor, or their affiliated companies, and by members of the immediate families of such persons or any trust, pension or profit sharing plan for the period of such personals, provided that such shares may not be resold except to the Fund; (d) in connection with redemptions of shares made pursuant to a shareholder's participation in any systematic withdrawal plan adopted by a Fund; (e) on redemptions effective pursuant to a Fund's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the accounts is less than the minimum account size; (f) in connection with redemptions by accounts established with an initial purchase order of $1 million or more; and (g) in connection with redemptions effected by advisory accounts managed by the Adviser or by a company affiliated with it. If the Funds waive or reduce the CDSC, such action will be uniformly applied to all offerees in the class specified.

5. If the trustee of a Fund offering a class of shares which has been waiving or reducing its CDSC pursuant to any of the items set forth above determine not to waive or reduce such CDSC any longer, the disclosure in that Fund's prospectus will be appropriately revised. Also, any class of shares subject to a CDSC purchased prior to the termination of such waiver or reduction would be able to have the CDSC waived or reduced as provided in a Fund's prospectus at the time of the purchase of such shares.

6. An investor may reinvest in any of the FFB Funds within 120 days of a redemption of Class C shares. The reinvestment would be at net asset value, and would be reinvested in Class C shares of the chosen Fund without the imposition of the CDSC. Any CDSC paid upon redemption would be reinstated by the Distributor to the investor's account and the reinvested shares would continue to be subject to the applicable CDSC. The proposed CDSC reinstatement allows investors who

erroneously redeemed or otherwise had second thoughts about having redeemed their shares to reinvest the proceeds, plus the amount of any CDSC previously paid. It also affords a shareholder the opportunity to determine without fear of being subjected to the CDSC whether the redemption was the best means of satisfying his or her current financial needs.

Applicants' Legal Analysis

1. Applicants request an exemptive order to the extent that the proposed arrangement might be deemed (a) to result in a "senior security" within the meaning of section 18(g) and prohibited by section 18(f)(1), and (b) to violate the equal voting provisions of section 18(i).

2. Applicants believe that the classes of securities present in the capital structures that prompted the SEC to recommend the adoption of section 18 (*i.e.*, funded debt, preferential stocks, and convertible securities) would not be present here. The proposed arrangement does not involve borrowings, and does not affect the Funds' existing assets or reserves. Applicants submit that no class of shares will have a priority claim on earnings, a preferential lien on Fund assets in the case of liquidation or dissolution, or any right to require that lapsed dividends be paid before dividends are declared on the other classes of shares in the Fund, and no class will be protected by any reserve or other account.

3. Applicants submit that each Fund's capital structure would not induce shareholders to invest in risky securities to the detriment of other shareholders since the investment risks of a Fund will be borne equally by all of its shareholders. Each Fund's capital structure would not enable insiders to manipulate the expenses and profits among shares since it is not organized in a pyramid fashion. Moreover, the concerns that complex capital structures may facilitate control without equity or other investment and may make it difficult for investors to value Fund shares are not present here. Applicants submit that, since the similarities and dissimilarities of the shares will be fully disclosed in the prospectuses for each class of a Fund, investors will not be given misleading impressions as to the safety or risk of the shares and the nature of the shares will not be rendered speculative.

4. Applicants believe that the proposed arrangement would enhance the ability of each Fund to facilitate meeting its competitive demands. Applicants also believe that the proposed allocation of expenses and voting rights relating to the distribution plans is equitable and would not discriminate against any group of investors. An investor would be able to choose the method of purchasing shares that is most beneficial given the amount of purchase, the length of time the shares are expected to be held, and other relevant circumstances. Customers who receive the services provided under a shareholder servicing plan would bear the associated expenses, while investors not purchasing shares covered by such a plan would not be burdened by such expenses.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of a Fund, and be identical in all respects, except as set forth below. The only differences between the classes of shares of a Fund will relate solely to: (a) the impact of the expenses specifically attributable to the particular class, limited to: transfer agent fees as identified by the transfer agent as being attributable to a specific class; fees payable to a distribution plan and shareholder servicing plan or agreement, if applicable; printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders; registration fees; the expense of administrative personnel and services as required to support the shareholders of a specific class; litigation or other legal expenses relating solely to one class of shares and trustees' fees incurred as a result of issues relating to one class of shares; (b) the fact that the classes will vote separately with respect to a Fund's shareholder servicing plan and distribution plan, if applicable, except as provided in condition 16 below; (c) the different exchange privileges of each class of shares; (d) the conversion feature applicable only to the Class C shares; and (e) different class designation of each class of shares.

2. The initial determination of the class expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of trustees of the Fund including a majority of the trustees who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of moneys paid or payable by the Fund to meet class expenses shall provide to the board of trustees, and the trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

3. The trustees of a Fund, including a majority of the independent trustees, will approve the Multi-Class Distribution System. The minutes of the meetings of the trustees of a Fund regarding the deliberations of the trustees with respect to the approvals necessary to implement the Multi-Class Distribution System will reflect in detail the reasons for the trustees' determination that the proposed Multi-Class Distribution System is in the best interests of both the Fund and its shareholders.

4. On an ongoing basis, the trustees of a Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the classes of shares. The trustees, including a majority of the independent trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser, Administrator and the Distributor will be responsible for reporting any potential or existing conflicts to the trustees. If a conflict arises, the Adviser, the Administrator and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. The shareholder services plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

6. The trustees of a Fund will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

7. Dividends paid by a Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the

same time, on the same day, and will be in the same amount, except that distribution and shareholder services payments relating to each respective class of shares will be borne exclusively by that class and any incremental transfer agency costs and other class expenses relating to a specific class of shares will be borne exclusively by that class.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the multi-classes and the proper allocation of expenses between the classes has been reviewed by an expert (the "Expert"), who has rendered a report to applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the expert is a "Special Purpose" report on the "Design of a System" as defined and described in SAS No. 44 of the AICPA, and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the classes of shares and the proper allocation of expenses between the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectus of each Fund will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

11. The Distributor will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of a Fund to agree to conform to such standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees of the Fund with respect to the Multi-Class Distribution System will be set forth in guidelines which will be furnished to the trustees.

13. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales, loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to each Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares separately.

14. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Fund may make pursuant to its distribution plan or shareholder services plan in reliance on the exemptive order.

15. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset value of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26, of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

16. If a Fund implements any amendment to its rule 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by the Class B shares under the plan, existing Class C shares will stop converting into Class B unless the Class C shareholders, voting separately as a class, approve the proposal. The Directors/Trustees shall take such action as is necessary to ensure that existing Class C shares are exchanged or converted into a new class of shares ("New Class B"), identical in all material respects to Class B as it existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into Class B. If deemed advisable by the Directors/Trustees to implement the foregoing, such action may include the exchange of all existing Class C shares for a new class ("New Class C"), identical to existing Class C shares in all material respects except that New Class C will convert into New Class B. New Class B or New Class C may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be affected in a manner that the Directors/Trustees reasonably believe will not be subject to federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Class B or New Class C shall be borne solely by the adviser and the distributor. Class C shares sold after implementation of the proposal may convert to Class B shares subject to the higher maximum payment, provided that the material features of the Class plan and the relationship of such plan to the Class C shares are disclosed in an effective registration statement.

17. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

18. To ensure that the net asset value per share of all shares of a Fund which declares dividends on a daily basis remains the same regardless of variations in daily net income, no class will bear any class expenses that would cause the accrued expenses of such class to exceed allocated gross income on any given day. To accomplish this, each such Fund may seek to obtain undertakings from its service providers stating, that, if necessary to prevent accrued class expenses of any class from exceeding the allocated gross income of such class on any given day, they will waive some or all of the payments to which they otherwise would have been entitled. If such waivers are not obtained or they are not sufficient to prevent accrued class expenses for the day from exceeding a class's gross income for the day, the Adviser and/or the Distributor will waive their fees up to the amount by which such day's accrued class expenses exceed a class's gross income. If after giving effect to such waivers by service providers, if any, and by the Adviser and the Distributor, class expense for the day would nevertheless exceed a class's gross income, the Adviser and/or the Distributor will, within five business days, reimburse the Fund in such amount as may be necessary to prevent such class expenses from exceeding a class's gross income for the day. Fees and expenses waived by a service provider or reimbursed to the Fund by the Adviser and/or the Distributor will not be carried forward or recouped at a future date.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15136 Filed 6–25–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19538; 812–8316]

Midwest Strategic Trust, et al.; Application

June 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Midwest Strategic Trust, Midwest Group Tax Free Trust, and Midwest Income Trust, on behalf of themselves and any other open-end management investment company for which Midwest Advisory Services, Inc. ("MAS") or Leshner Financial Services, Inc. ("Leshner") (collectively, the "Advisers") may in the future become the investment adviser or for which MGF Distributors, Inc. (the "Distributor") may in the future become the principal underwriter (the "Funds"); the Advisers; and the Distributor.

RELEVANT ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Funds to issue and sell three classes of shares representing interests in the same portfolios of securities, assess a contingent deferred sales charge ("CDSC") on certain redemptions, and waive the CDSC in certain instances.

FILING DATE: The application was filed on March 19, 1993, and amended on April 28, 1993, June 7, 1993, and June 17, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 19, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 312 Walnut Street, 21st Floor, Cincinnati, Ohio 45202.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are open-end diversified management investment companies. MAS provides investment advisory and other services to the Funds, except for Leshner Financial Equity Fund, a series of Midwest Strategic Trust. Leshner provides investment advisory and other services to Leshner Financial Equity Fund. The Distributor serves as principal underwriter for the Funds.

2. Applicants seek an exemption to permit the individual series of the Funds that are not money market funds (the "Series") to issue three classes of shares, to impose a CDSC on certain redemptions of one class of shares, and to waive the CDSC in certain cases. Under applicants proposal, investors will be able to purchase shares in one of three manners: (a) Subject to a conventional front-end sales load, and distribution fee not to exceed .35% of average net assets ("Class A shares"); (b) subject to a front-end sales load that is smaller than the sales load on Class A shares, and a distribution fee and service fee of up to 1% of average net assets ("Class B shares"); and (c) subject to a CDSS, and a distribution and service fee of up to 1% of average net assets ("Class C shares").

3. Each of the Series, except Leshner Financial Equity Fund, are sold with a front-end sales load (ranging from 1% to 4%) and a distribution fee at an annual rate ranging from .25% to .35% of average daily net assets. Leshner Financial Equity Fund shares are sold subject to a maximum front-end sales load of 1% and a distribution fee at an annual rate of 1% of average daily net assets. The multi-class distribution system will be implemented by having the Series create up to two new classes of shares (the existing shares of Leshner Equity Fund will be designated Class B and the existing shares of the other Series will be designated Class A). The creation and issuance of multiple classes of shares will be made on a Series-by-Series basis, and some Series may not in fact create any new classes or may create only two of the three classes.

4. The three classes will be identical except that: (i) The distribution fees payable by a Series attributable to each class pursuant to the proposed rule 12b–1 distribution plans will be higher for Class B shares and Class C shares than for Class A shares; (ii) each class may bear different Class Expenses (as defined below); (iii) each class will vote separately as a class with respect to a Series' rule 12b–1 distribution plan; (iv) each class has different exchange privileges as described below; and (v)

each class may bear a different name or designation.

5. Under the multi-class distribution system, a Fund's board of trustees could determine that any of certain expenses attributable to the shares of a particular class of shares would be borne by the class to which they were attributable ("Class Expenses"). Class Expenses, are limited to: (a) Transfer agency fees (including the incremental cost of monitoring a CDSC applicable to a specific class of shares); (b) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders of a specific class; (c) SEC and Blue Sky registration fees incurred by a class of shares; (d) the expenses of administrative personnel and services as required to support the shareholders of a specific class (including, but not limited to, maintaining telephone lines and personnel to answer shareholders' inquiries about their accounts or about the Funds); (e) litigation or other legal expenses relating to a specific class of shares; (f) Trustees' fees or expenses incurred as a result of issues relating to a specific class of shares; (g) accounting fees and expenses relating to a specific class of shares; and (h) additional incremental expenses not specifically identified above that are subsequently identified and determined to be properly allocated to one class of shares and approved by the SEC.

6. The CDSC is expected to range from 3% to 5% shares redeemed during the first year after purchase (but can be higher or lower) and will be reduced at a rate of 1.00% per year over the CDSC period (which will be at least three years but will not exceed six years) so that redemptions of shares held after that period will not be subject to a CDSC. The CDSC will be imposed on the lesser of the aggregate net asset value of the shares being redeemed either at the time of purchase or redemption. No CDSC will be imposed on shares acquired through reinvestment of income dividends or capital gains distributions. In determining whether a CDSC is applicable, unless the shareholder otherwise specifically directs, it will be assumed that a redemption is made first of any Class C shares derived from reinvestment of dividends, second of Class C shares held for a period longer than the CDSC period, third of any Class B shares in the shareholder's account, fourth of any Class A shares in the shareholder's account, and fifth of Class C shares held for a period not longer than the CDSC period.

7. Applicants will waive the CDSC on redemptions following the death or disability of a shareholder as defined in section 72(m)(7) of the Internal Revenue Code. The Distributor will require satisfactory proof of death or disability before it determines to waive the CDSC. In cases of death or disability, the CDSC may be waived where the decedent or disabled person is either an individual shareholder or owns the shares with his or her spouse as a joint tenant with rights of survivorship if the redemption is made within one year of death or initial determination of disability.

8. Under the multi-class distribution system, Class A shares and Class B shares of a Series will be exchangeable for (a) Class A shares of the other Series, (b) Class B shares of the other Series, (c) shares of series of the Funds which are money market funds ("Money Market Series"), and (d) shares of any Series which offers only one class of shares (provided such Series does not impose a CDSC) on the basis of relative net asset value per share, plus an amount equal to the difference, if any between the sales charge previously paid on the exchanged shares and sales charge payable at the time of the exchange on the acquired shares.

9. Class C shares of a Series will be exchangeable for (a) Class C shares of the other Series, (b) shares of the Money Market Series, and (c) shares of any Series which offers only one class of shares and which imposes a CDSC on the basis of relative net asset value per share. A Series will "tack" the period for which original Class C shares were held onto the holding period of the acquired Class C shares for purposes of determining what, if any, CDSC is applicable in the event that the acquired Class C shares are redeemed following the exchange. In the event of redemptions of shares after an exchange, an investor will be subject to the CDSC of the Series with the longest CDSC period and/or highest CDSC schedule which may have been owned by him or her, resulting in the greatest CDSC payment. The period of time that Class C shares are held in a Money Market Series will not count toward the CDSC holding period. Applicants will comply with rule 11a–3 as to any exchanges.

Applicants' Legal Analysis

1. Applicants request an order exempting them from the provisions of sections 18(f)(1), 18(g), and 18(i) of the Act to the extent that the proposed issuance and sale of three classes of shares representing interests in the same Series might be deemed: (a) to result in a "senior security" within the meaning of section 18(g); (b) prohibited by section 18(f)(1); and (c) to violate the equal voting provisions of section 18(i).

2. Applicants believe that the proposed multi-class arrangement will better enable the Funds to meet the competitive demands of today's financial services industry. Under the multi-class arrangement, an investor will be able to choose the method of purchasing shares that is most beneficial given the amount of his or her purchase, the length of time the investor expects to hold his or her shares, and other relevant circumstances. The proposed arrangement would permit the Funds to facilitate both the distribution of their securities and provide investors with a broader choice as to the method of purchasing shares without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

3. The proposed allocation of expenses and voting rights relating to the rule 12b–1 plans in the manner described is equitable and would not discriminate against any group of shareholders. In addition, such arrangements should not give rise to any conflicts of interest because the rights and privileges of each class of shares are substantially identical.

4. Applicants believe that the proposed multi-class arrangement does not present the concerns that section 18 of the Act was designed to address. The multi-class arrangement will not increase the speculative character of the shares of the Fund. The multi-class arrangement does not involve borrowing, nor will it affect the Funds' existing assets or reserves, and does not involve a complex capital structure. Nothing in the multi-class arrangement suggests that it will facilitate control by holders of any class of shares.

5. Applicants submit that the requested exemption to permit the Funds to implement the proposed CDSC is appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. The proposed CDSC arrangement will provide shareholders the option of having their full payment invested for them at the time of their purchase of shares of the Funds with no deduction of a sales charge.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of a Series, and be identical in all material respects, except as set forth below. The only differences among

the various classes of a Series will relate solely to: (a) the impact of disproportionate rule 12b–1 distribution payments allocated to each of the Class A shares, Class B shares, or Class C shares of a Series; (b) Class Expenses, which are limited to: (i) transfer agency fees (including the incremental cost of monitoring a CDSC applicable to a specific class of shares), (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders of a specific class, (iii) SEC and Blue Sky registration fees incurred by a class of shares, (iv) the expenses of administrative personnel and services as required to support the shareholders of a specific class, (v) litigation or other legal expenses relating to a specific class of shares, (vi) trustees' fees or expenses incurred as a result of issues relating to a specific class of shares, and (vii) accounting fees and expenses relating to a specific class of shares; (c) the fact that each class will vote separately as a class with respect to the rule 12b–1 distribution plans; (d) the different exchange privileges of the various classes of shares; and (e) the designation of each class of shares of the Series. Any additional incremental expenses not specifically identified above that are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC.

2. The trustees of each of the Funds, including a majority of the trustees who are not interested persons of the Funds, shall have approved the multi-class system prior to the implementation of the multi-class system by a particular Series. The minutes of the meetings of the trustees of each Fund regarding the deliberations of the trustees with respect to the approvals necessary to implement the multi-class system will reflect in detail the reasons for the trustees' determination that the proposed multi-class system is in the best interests of both the Series and their respective shareholders.

3. The initial determination of Class Expenses that will be applied to a class of shares and any subsequent changes thereto will be reviewed and approved by votes of the board of trustees of each Fund, including a majority of the trustees who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by a Series to meet Class Expenses shall provide to the board of trustees, and the trustees shall review at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the trustees of each of the Funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Series for the existence of any material conflicts among the interests of the various classes of shares. The trustees, including a majority of the trustees who are not interested persons of the Funds, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. A Series' investment adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the trustees. If a conflict arises, a Series' investment adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. The trustees of each Fund will receive quarterly and annual statements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only distribution expenditures properly attributable to the sale of a class of shares will be used to support the rule 12b–1 fees charged to shareholders of such class of shares. Expenditures not related to the sale of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

6. Dividends paid by a Series with respect to each class of shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that distribution fee payments and Class Expenses relating to each respective class of shares will be borne exclusively by that class.

7. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes and the proper allocation of income and expenses among the classes has been reviewed by an expert (the "Expert") who has rendered a report to the applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and based on such review, will render at least annually a report to the Series that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Funds (which each Fund agrees to provide), will be available for inspection by the SEC staff upon the written request for such work papers by a senior member of the Division of Investment Management or of a Regional office of the SEC, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions among the various classes of shares and the proper allocation of income and expenses among such classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in condition 7 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 7 above. Applicants agree to take immediate corrective measures if this representation is not concurred in by the Expert, or appropriate substitute Expert.

9. The prospectus of each Series will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling Series shares may receive different compensation with respect to one particular class of shares over another in the Series.

10. The Distributor will adopt compliance standards as to when Class A, Class B and Class C shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the

trustees of each Fund with respect to the multi-class system will be set forth in guidelines which will be furnished to the trustees.

12. Each Series will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus. Class A, Class B, and Class C shares will be offered and sold through a single prospectus. Each Series will disclose the respective expenses and performance data applicable to each class of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Series as a whole generally and not on a per class basis. Each Series' per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Series. To the extent any advertisement or sales literature describes the expenses or performance data applicable to Class A, B, or C shares, it will disclose the respective expenses and/or performance data applicable to each class of shares. The information provided by applicants for publication in any newspaper or similar listing of the Series' net asset values and public offering prices will separately present Class A, Class B, and Class C shares.

13. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Series may make pursuant to its rule 12b–1 distribution plans or otherwise in reliance on the exemptive order.

14. Applicants will comply with the provisions of proposed Rule 6c–10 under the Act, Investment Company Act Release No. 16169 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–15137 Filed 6–25–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19532; 811–5525]

Huntington Investment Trust; Notice of Application

June 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Huntington Investment Trust.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 10, 1993, an amendment thereto was filed on May 6, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 19, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Huntington Investment Trust, 251 South Lake Avenue, suite 600, Pasadena, California 91101.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 272–3023, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management company, organized as a business trust under the laws of Massachusetts. On March 31, 1988, applicant filed a Notification of Registration on Form N–8A. Applicant registered an indefinite number of units of beneficial interest of its CPI+ Fund series (the "Fund"), on Form N–1A which was declared effective on January 2, 1989. Applicant commenced the public offering of shares of the Fund on or about January 23, 1989. Until its liquidation on November 30, 1990, the Fund was Applicant's sole series.

2. On October 9, 1992, applicant's Board of Trustees voted to liquidate and terminate applicant and the Fund. The Board's principal reasons for liquidating were: (a) that the Fund was too small to be able to operate efficiently; (b) that the nature of the Fund's investment strategy was such that there did not appear to be any basis for anticipating that the Fund's net asset size would increase significantly in the foreseeable future; and (c) the Fund's investment manager could not continue to subsidize the Fund in order to allow it to continue to operate.

3. On or about October 22, 1992, the Trust sent a written communication to the securityholders of record of the Funds as of October 15, 1992, which described the pending liquidation and termination of the Trust and the Fund. No securityholder action or vote was required under the Trust's Agreement and Declaration of Trust or under Massachusetts law to liquidate the Fund.

4. All of the Fund's portfolio securities were sold on the open market prior to the liquidation and distribution of the Fund's net assets. All brokerage commissions incurred in connection with such sales were paid by the Fund.

5. The Fund incurred no expenses in connection with the liquidation and distribution of its assets.[1] Applicants unamortized organizational expenses at the time of liquidation of the Fund were $10,997, all of which were paid by Huntington Advisers, Inc. and not Applicant's securityholders.

6. At November 27, 1992, the Fund had the following securities outstanding: 29,024 shares having an aggregate net asset value of $1,305,058 and a per share net asset value of $44.96. On November 30, 1992, the Fund made a liquidating distribution of $44.96 per share to all Fund shareholders of record at the close of business on November 27, 1992.

7. Applicant has not securityholders, debts or liabilities as of the time of filing of the application. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant is not presently engaged in nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

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[1] By letter dated June 15, 1993, applicant's counsel stated that the expenses relating to the liquidation of the Trust totalled approximately $2,430.76, none of which were borne by the Trust. All of those expenses have been or will be paid by the Trust's investment adviser, Huntington Advisers, Inc.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-15084 Filed 6-25-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. IC-19531; 811-1085]

Monmouth Capital Corporation; Deregistration

June 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Monmouth Capital Corporation.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company because it is engaged in real estate related activities within the scope of section 3(c)(5)(C) of the Act.

FILING DATE: The application was filed on December 6, 1991, and amended on April 12, 1993. Applicant has agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 19, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Eugene W. Landy, 125 Wyckoff Road, Eatontown, New Jersey 07724.

FOR FURTHER INFORMATION CONTACT: Maura A. Murphy, Senior Attorney, at (202) 272-7779 or Robert A. Robertson, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end non-diversified management investment company organized as a New Jersey corporation. On August 8, 1961, it registered under the Act by filing a notification of registration. Applicant has approximately 517 shareholders, and 510,680 shares of common stock outstanding that trade in the over-the-counter market.

2. Applicant also was licensed by the Small Business Administration as a small business investment company ("SBIC") under the Small Business Investment Act of 1958 from June 28, 1961 to January 13, 1993. As an SBIC, applicant was permitted to provide financing to small business concerns through the making of loans to, and obtaining certain equity interests in, small business concerns. At present, substantially all of applicant's business consists of acquiring loans and participation interests in loans, substantially all of which are secured by real estate.

3. Applicant's board of directors determined that it is no longer in the best interests of applicant or its shareholders to operate as an SBIC or an investment company. As a result of board proposals, applicant's shareholders adopted resolutions allowing applicant and its management to: (1) amend applicant's certificate of incorporation to permit it to engage in business as a general corporation rather than exclusively as an SBIC, (2) amend applicant's investment and loan policies to authorize it to engage in the making and acquisition of real estate investments and mortgage loans, the acquisition, development, construction, leasing, management and disposition of real estate and improvements thereon, and other real estate related activities (collectively, "Real Estate Activities"), (3) cause applicant to engage in Real Estate Activities and to attempt to qualify as a real estate investment trust under subchapter M of the Internal Revenue Code, and (4) cause applicant to cease to be an investment company under the Act and an SBIC under the Small Business Investment Act.

4. Applicant's management is taking all necessary steps to effectuate the foregoing resolutions. Applicant surrendered its license with the Small Business Administration on January 15, 1993. In addition, applicant does not propose to engage in any business activities other than Real Estate Activities.

5. As of March 17, 1993, applicant had assets totalling $3,961,510. Applicant's total assets consisted substantially of the following, which are discussed more fully below: outstanding loans secured by mortgages on real estate ("Mortgage Loans"); whole-pool mortgage-backed securities; participation interests in Mortgage Loans; a trust whose underlying assets consist substantially of Mortgage Loans; and cash items and other investments and assets.

Applicant's Legal Analysis

1. Section 8(f) of the Act provides, in part, that when the SEC, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

2. Section 3(c)(5)(C) of the Act specifically excepts from the definition of an investment company any person who is not engaged in the business of issuing redeemable securities, face-amount certificates of the installment type or periodic payment plan certificates, and who is primarily engaged in the business of purchasing or otherwise acquiring mortgages and other liens on and interests in real estate. Applicant is not engaged in the issuance of redeemable securities, face-amount certificates of the installment type, or periodic payment plan certificates as defined in the Act. In addition, it believes that it is primarily engaged in purchasing or otherwise acquiring mortgages and other liens on and interests in real estate.

A. Mortgage Loans, Whole Pool GNMAs, and Participation Interests with Foreclosure Rights

1. Applicant holds certain Mortgage Loans, each of which meets the following criteria: (1) the Mortgage Loan is secured by a mortgage or deed of trust on one or more tracts or parcels of real estate ("Real Estate"); (2) 100% of the principal amount of the Mortgage Loan was secured by Real Estate at the time of origination; and (3) 100% of the fair market value of the Mortgage Loan was secured by Real Estate at the time applicant received the Loan ("First Tier Mortgage Loans"). As of March 17, 1993, applicant's First Tier Mortgage Loans, in the aggregate including accrued interest, totalled approximately $1,418,820, or 36% of applicant's total assets.

2. Applicant holds mortgage pass-through certificates guaranteed by the Government National Mortgage Association that represent all of the

ownership interests in a pool of mortgages underlying the certificates ("Whole Pool GNMAs"). As of March 17, 1993, these Whole Pool GNMAs were valued at approximately $1,096,531, including accrued interest, and thus constituted approximately 28% of applicant's total assets.

3. Applicant holds a participation interest in a Mortgage Loan upon which applicant has an unrestricted right to foreclose. Applicant was the primary mortgage lender with respect to a loan to Motel Associates of Columbus. After selling participation interests in that Mortgage Loan to other parties, applicant continues to retain the rights it had when the Mortgage Loan was originated, including the unrestricted right to foreclose upon the Mortgage Loan. As of March 17, 1993, the total value of applicant's Motel Associates participation interest, including accrued interest, was approximately $415,482, or 10.5% of applicant's total assets.

4. Accordingly, $2,930,833 or 74.5% of applicant's assets consist of First Tier Mortgage Loans, Whole Pool GNMAs, and a participation interest with foreclosure rights.

B. Participation Interests Without Foreclosure Rights, and Interest in a Trust

1. Applicant also has participation interests in Mortgage Loans originated by First Connecticut Small Business Investment Company. Each First Connecticut participation interest was entered into pursuant to a separate participation agreement with First Connecticut. First Connecticut maintains unrestricted control over the enforcement of the underlying Mortgage Loan in connection with each First Connecticut participation interest (*i.e.*, First Connecticut has the unrestricted right to foreclose upon the Mortgage Loan). As of March 17, 1993, the total value of these First Connecticut participation interests, including accrued interest, was approximately $133,678, or 3% of applicant's total assets.

2. In 1990, First Connecticut filed a petition under the United States Bankruptcy Code to reorganize its operations. First Connecticut's plan of reorganization was approved in 1992. Under the Plan, each party that had purchased participation interests in Mortgage Loans from First Connecticut had an opportunity to receive an interest in the First Connecticut Participants' Trust. Applicant elected to retain the First Connecticut participation interests described in the preceding paragraph, and to receive an interest in the Trust with respect to certain other participation interests. The Trust is a pool of money that consists of all of the funds received by First Connecticut in the ordinary course of its business. These funds are derived substantially from Mortgage Loans. First Connecticut delivers the funds to the Trust, which then disburses them to the various participants in accordance with the agreed-upon interest rate in the respective participation agreements. To secure the payments from the Trust, each participant, including applicant, was granted "a blanket security interest in and to all [First Connecticut's] assets, real or personal." The value of applicant's interest in the Trust was approximately $336,494, or 8.5% of applicant's total assets, as of March 17, 1993.

3. Accordingly, $470,172 or 11.5% of applicant's assets consist of real estate type assets in the form of participation interests without foreclosure rights, and the First Connecticut Trust.

C. Cash Items and Other Investments

As of March 17, 1993, applicant held cash items and other miscellaneous investments in the total amount of approximately $469,637, which constituted approximately 12% of its total assets. Applicant's total assets also include non-investment assets totalling $90,868, constituting approximately 2% of applicant's total assets.[1]

D. Conclusion

In summary, as of March 17, 1993, the value of applicant's assets was $3,961,510, which consisted of approximately the following: $2,930,833 or 74.5% in First Tier Mortgage Loans, Whole Pool GNMAs, and participation interests with foreclosure rights; $470,172 or 11.5% in real estate type assets in the form of participation interests without foreclosure rights, and the First Connecticut Trust; and $560,505 or 14% in cash items and other miscellaneous investments. In light of the assets described above, applicant believes that it is excepted from the definition of an investment company by reason of section 3(c)(5)(C) of the Act, and that the SEC should declare by order pursuant to section 8(f) that applicant has ceased to be an investment company.

[1] This amount consists of prepaid expenses totalling $28,539, accounts receivable of $25,836, and other assets in the amount of $36,493.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-15083 Filed 6-25-93; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination of the Individual Tariff-Rate Quota Amounts for Certain Imported Sugars, Syrups, and Molasses for "Other Specified Countries and Areas"

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the individual tariff-rate quota amounts for each foreign country and area in the category of "Other specified countries and areas" for imports of certain sugars, syrups, and molasses for the period October 1, 1992 through September 30, 1994. On May 11, 1993, the Secretary of Agriculture announced the total amount and quota period for the tariff-rate quota for these sugars, syrups and molasses at 2.5 million short tons, raw value for the period October 1, 1992 through September 30, 1994, effective October 1, 1993.

EFFECTIVE DATE: June 29, 1993.

FOR FURTHER INFORMATION CONTACT: Carole Jackson, Senior Economist, Office of Agricultural Affairs (202-395-5006), or Daniel Brinza, Senior Advisor and Special Counsel for Natural Resources, Office of the General Counsel (202-395-7305); Office of the United States Trade Representative, 600 Seventeenth Street, Washington, DC 20506.

SUPPLEMENTARY INFORMATION: Section 2011.303 of 15 CFR provides for the allocation of individual quota amounts to each foreign country and area in the category of "Other specified countries and areas" specified pursuant to Additional U.S. note 3(b) of the Harmonized Tariff Schedule of the United States. The individual quota amount is specified in 15 CFR 2011.303(b), and has normally been 7,258 metric tons, raw value for a 12-month quota period (October 1—September 30).

However, the USTR is authorized under 15 CFR 2011.303(c)(2) to modify this individual tariff-rate quota amount to ensure an orderly transition in the circumstance of a change from an

annual quota period (October 1—September 30) to another quota period. Notice of any such modification is to be published in the **Federal Register.**

Notice

On May 11, 1992, the Secretary of Agriculture determined and announced by press release that 2.5 million short tons, raw value of the aforementioned sugars, syrups and molasses may be entered, or withdrawn from warehouse for consumption, during the period of October 1, 1992 through September 30, 1994, effective October 1, 1993.

This is a change from an annual tariff-rate quota period (October 1—September 30) to another quota period. Accordingly, in order to ensure an orderly transition, the USTR has determined that, for the period October 1, 1992 through September 30, 1994, and effective October 1, 1993, the individual tariff-rate quota amount for each of the foreign countries and areas in the category of "Other specified countries and areas" is set at 13,372 metric tons, raw value.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 93–15158 Filed 6–25–93; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Vehicle-Highway Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Vehicle-Highway Society of America (IVHS AMERICA) will hold a meeting of its Board of Directors on August 3, 1993. The session is expected to focus on: (1) An amendment to the Articles of Incorporation; (2) Bylaws revisions; (3) DOT program advice on government procurement; (4) Task force and project on public/private partnership issues; (5) IVHS National Program Plan; (6) International Standards Organization activities; (7) IVHS architecture; and (8) IVHS World Congress.

IVHS AMERICA provides a forum for national discussion and recommendations on IVHS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of IVHS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on IVHS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of IVHS AMERICA will meet on August 3 from 9 a.m. to 4:30 p.m. e.t.

ADDRESSES: Beckman Center, 100 Academy Drive, Irvine, California 92715, (714) 721–2211.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Euler, FHWA, HTV–10, Washington, DC 20590, (202) 366–2201, office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except for legal holidays; or Mr. Craig Roberts, IVHS AMERICA, 1776 Massachusetts Avenue, NW., Washington, DC 20036, (202) 857–1202.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: June 21, 1993.

Rodney E. Slater,

Administrator.

[FR Doc. 93–15068 Filed 6–25–93; 8:45 am]

BILLING CODE 4910–22–P

Federal Transit Administration

FTA Sections 3 and 9 Grant Obligations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1993, Public Law 102–338, contains a provision requiring the Federal Transit Administration (FTA) to publish an announcement in the **Federal Register** every 30 days of grants obligated pursuant to sections 3 and 9 of the Federal Transit Act, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT:

Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, Department of Transportation, Federal Transit Administration, Office of Grants Management, 400 Seventh Street, SW., room 9305, Washington, DC 20590, (202) 366–2053.

SUPPLEMENTARY INFORMATION: The section 3 program provides capital assistance to eligible recipients in three categories: Fixed guideway modernization, construction of new fixed guideway systems and extensions, and bus purchases and construction of bus related facilities. The section 9 program apportions funds on a formula basis to provide capital and operating assistance in urbanized areas. Section 9 grants reported may include flexible funds transferred from the Federal Highway Administration to the FTA for use in transit projects in urbanized areas. These flexible funds are authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to be used for highway or transit purposes. Pursuant to the statute FTA reports the following grant information.

Transit property	Grant No.	Grant amount	Obligation date
SECTION 3 GRANTS			
County of Sacramento—Department of Public Works, Sacramento, CA	CA–03–0371–00	$1,061,175	05/17/93
Los Angeles County Metropolitan Transportation Authority, Los Angeles, CA	CA–03–0392–00	59,550,000	05/13/93
San Francisco Bay Area Rapid Transit District, San Francisco—Oakland, CA	CA–03–0394–00	22,500,000	05/20/93
Metropolitan Transit Development Board, San Diego, CA	CA–03–0398–00	2,700,190	05/18/93
Santa Clara County Transit District, San Jose, CA	CA–03–0402–00	48,000,000	05/20/93.
SECTION 9 GRANTS			
South Coast Area Transit, Oxnard—Ventura, CA	CA–90–X514–00	2,504,190	05/17/93
City of Victorville, Riverside—San Bernardino, CA	CA–90–X545–00	1,241,266	05/11/93
Hub Area Transit Authority, Yuba City, CA	CA–90–X546–00	456,550	05/20/93
Metropolitan Transit Development Board, San Diego, CA	CA–90–X554–00	13,349,718	05/17/93

Transit property	Grant No.	Grant amount	Obligation date
City of Davis, Davis, CA	CA-90-X556-00	649,625	05/19/93
Sunline Transit Agency, Palm Springs, CA	CA-90-X557-00	1,299,249	05/19/93
Los Angeles County Metropolitan Transportation Authority, Los Angeles, CA	CA-90-X575-00	21,326,000	05/13/93
Middletown Transit District, Hartford—Middletown, CT	CT-90-X208-01	11,287	05/11/93
Maine Department of Transportation, Maine	ME-90-X065-00	870,981	05/07/93

Issued On: June 22, 1993.

Robert H. McManus,

Acting Administrator.

[FR Doc. 93-15047 Filed 6-25-93; 8:45 am]

BILLING CODE 4910-57-M

National Highway Traffic Safety Administration

Highway Traffic Safety Intern Program; Discretionary Cooperative Agreement

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Announcement of Discretionary Cooperative Agreement to Support a Highway Traffic Safety Intern Program.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces the availability of a discretionary cooperative agreement to support a highway traffic safety program for graduate students. This notice solicits applications from colleges and universities interested in working jointly with NHTSA to perform the educational and support activities for this internship program.

DATES: Applications must be received at the office designated below on or before 4 p.m., August 13, 1993.

ADDRESSES: Applications should reference procurement number DTNH22-93-Y-05301 and must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD-30), 400 7th Street SW., room 5301, Washington, DC 20590, Attention: Karen Brockmeier.

FOR FURTHER INFORMATION CONTACT: Questions related to this cooperative agreement should be directed to Ms. Susan Gorcowski, Chief, National Organizations Division (NTS-11), NHTSA, Room 5118, 400 7th Street SW., Washington, DC 20590, (202-366-2712).

SUPPLEMENTARY INFORMATION:

Background

The National Highway Traffic Safety Administration (NHTSA) is mandated to design strategies to save lives and reduce injuries from motor vehicle crashes. NHTSA's Office of Occupant Protection meets this responsibility by educating the general public and specific target populations about the benefits of occupant protection systems. Among other things, these benefits center on the importance of using safety belts all the time, the proper use of child safety seats, and the effectiveness of automatic crash protection systems.

To achieve these occupant protection benefits, NHTSA is placing additional emphasis on reaching those identified in the research who show a higher than average risk of suffering the effects of non-safety belt use, or incorrect safety belt or child safety seat use. This population includes young adults, the economically disadvantaged, and rural populations. Therefore, NHTSA places special emphasis on these groups by using specific delivery systems to better reach them, while continuing to work with general and other target populations.

To help the nation reach safety belt use rates in the 70 to 90 percent range, NHTSA critically examined its existing occupant protection program strategies and initiated projects to help reach higher belt use levels. A sample of these projects are outlined below:

- Development of the National Safety Belt Honor Roll program, awarding those worksites, special groups, cities and schools, or other entities with a minimum of 100 people who show sustained belt use levels of 70 percent or more.
- Continued production of Idea Samplers for Child Passenger Safety Awareness Week in February and Buckle Up America! Week in May; adding an Idea Sampler for the Federal employees program; additional video news releases for the special focus weeks; and participating in the development of training and promotional materials for trucking industry and other special populations.
- Development of support services and materials to encourage Fortune 500 companies to take a leadership role in the area of traffic safety.
- Organizing the NHTSA occupant protection message around the following program delivery systems or subject areas: mass media; law enforcement; worksite and employer; school and child care-based; association and civic group; and health, medicine and nursing.

Over the years, NHTSA has worked with campuses on projects that offer students practical experiences in highway traffic safety. NHTSA plans to continue work in this area by sponsoring an intern program for graduate students. The approach we plan to use involves working with an educational institution to help present the benefits of highway traffic safety to students, and encourage them to consider a career in this field. NHTSA is interested in increasing the labor pool of knowledgeable, young, energetic traffic safety professionals.

NHTSA is responsible for assisting interested organizations in their efforts to promote the reduction of motor vehicle injuries and fatalities. Since 1981, NHTSA has worked with health and medical professionals, universities and colleges, civic groups, private and public employers, and others, who are in a position to promote occupant protection systems. They depend upon NHTSA to provide technical information and updates on current traffic safety issues. In order to increase, or at least maintain, the number of professionals who have more than just a fundamental knowledge of traffic safety issues, avenues are needed to expose students to this subject.

Many colleges and universities have phased out their programs dealing with careers in traffic safety. NHTSA is concerned with the shortage of traffic safety professionals in both public and private sector organizations, and student participation in this work-study program should act as an incentive to consider careers in highway traffic safety. Because of this experience, students many also consider the benefits of integrating highway safety concepts in whatever career fields they choose.

Many colleges and universities have shown innovation and originality in their support for safer highways. They have demonstrated their willingness to issue policy statements, and sponsor national workshops and demonstration projects on this subject. While this project's focus is on occupant protection, students must also be prepared to participate in other traffic safety areas. They include: pedestrian,

bicycle and motorcycle safety; driving while not under the influence of alcohol or drugs; police traffic services; emergency medical services; and other areas.

Objectives

The objective of this award is to design, implement and operate a Highway Traffic Safety Intern Program for selected graduate students. This program shall act as an incentive for students to consider careers in highway traffic safety. By completing this program, students will have developed practical experiences in this area and will be in a position to integrate the benefits of highway safety in their future private or public sector careers.

Specific Tasks

To receive this award, the applicant shall agree to complete the Specific Tasks outlined below:

1. Work with NHTSA to design a Highway Traffic Safety Intern program for selected graduate students. The design should encourage the development of well-trained, entry level professionals in the highway traffic safety field, for careers in the public and private sectors. The design should also include techniques on how graduate students might use motivating factors to encourage young people (15 to 24) in high risk populations to adopt positive traffic safety behaviors as components of healthy lifestyles. These factors should include ideas that young people can use to help spread the benefits of traffic safety among their peers.

2. Develop, in draft, specific program tasks descriptions and individual project assignments for students, and include the period of time for each assignment. The institution and NHTSA shall refine these descriptions after this project is awarded.

3. Develop criteria for selecting graduate student candidates, and identify and nominate appropriate graduate candidates based upon requirements of each project assignment.

4. Develop a schedule of student activities at both the institution's site and at NHTSA's offices in Washington, DC. While this program's primary focus is on occupant protection, the schedule shall reflect student participation and assignments that include other traffic safety concerns. Up to three students can participate in this internship each year. Each of the students shall be assigned to NHTSA on a rotating basis, and the time period for each assignment should be four to six months. Students may be assigned to various NHTSA units, working in areas such as pedestrian, bicycle and motorcycle safety; driving while not under the influence of alcohol or drugs; police traffic services; emergency medical services, or other areas. The travel section of the schedule should include attendance at the national Lifesavers conference by one or more of the students. The Lifesavers conference is sponsored by highway safety associations, the National Transportation Safety Board, and NHTSA, and attracts about 1300 safety professionals each year.

5. Provide supervision and academic advice and credit to selected graduate candidates, consistent with institution policy.

6. Provide appropriate space and facilities for participating students and institution staff involved in approved tasks and projects.

7. Contribute in-kind resources, valued at a minimum of $10,000 per year, in support of this effort.

8. Meet periodically with the NHTSA staff to promote the exchange of information so as to assure coordination of the program and related tasks and projects.

Deliverables

A final list of required deliverables will be developed in accordance with the accepted application prior to award. For planning purposes, the agency anticipates that the required deliverables will include the following:

Deliverables	Due date after award	Total number of copies
1. Quarterly Progress Reports	Quarterly	4
2. Student Selection Criteria	30	4
3. Listing of student schedules, tasks descriptions, individual project assignments.	30	4
4. Listing of candidates	30	4
5. Listing of candidates nominated for participation	30	4
6. Signed statements of agreement	55	4
7. Statements summarizing meetings between the institution and NHTSA.	Submit with monthly report	4
8. Drafts: Technical Summary and Final Report (see NHTSA Form HS 321, for Technical Summary format).	360	4
9. Institution submits Technical Summary and Final Report (60 days after termination).	420	Four (4) camera ready and six (6) reproducible copies.

Eligibility Requirements

In order to be eligible to participate in this cooperative agreement, an organization must meet the following requirements:

- Be a four-year institution in the United States, fully accredited by one of the institutional or professional accrediting associations;
- Offer graduate level programs in transportation safety, public health, medicine, nursing, or course work in related fields;
- Demonstrate an understanding of the current and potential role of the graduate student participation in occupant protection programs; and
- Demonstrate a commitment to obligate faculty, administrative, and other resources needed to effectively manage this program.

NHTSA's Role

NHTSA's Office of Occupant Protection (OOP) will be involved in all activities undertaken as part of this cooperative agreement program and will:

1. Provide a project officer to participate in the planning and management of the cooperative agreement, and coordinate activities between the institution and OOP;

2. Provide funding in an amount not to exceed $45,000 per year, to partially reimburse the grantee for the costs incurred in the performance of their efforts under this procurement. NHTSA used the following budget categories for this program: student and graduate assistant stipends; faculty and student travel; faculty support; student travel and per diem expenses; administration; and overhead. The Government reserves the right to extend the Period of

Performance for an additional twenty-four (24) months, subject to the availability of funds.

3. Work with the institution to identify the projects and their requirements concerning the student work experiences; and arrange for the participation of other Federal agencies;

4. Work with the institution to provide broad project description(s) for each student project.

5. Work with the institution's Project Officer, to complete specific task descriptions.

6. Review the qualifications of graduate students nominated by the institution, based upon the requirements of each project and task descriptions. Provide technical direction to those students mutually selected to perform the work requirements.

7. Coordinate meetings with other government and private agencies as appropriate and provide the institution with information and technical assistance from these sources.

8. Arrange for the following planning meetings with the institution's Project Officer and NHSTA staff: Pre Summer Session Meetings; Pre and Post Graduate Assignment Meetings; and Evaluation Meetings after each assignments.

9. As appropriate, provide necessary office space and support facilities when participating students are assigned at NHTSA's offices in Washington, D.C.

10. Notify the grantee in a timely fashion of any cancellation of projects or tasks.

Evaluation Criteria and Review Process

Submissions must demonstrate that the applicant meets all eligibility requirements listed above. Applications will be evaluated based upon the following factors which are listed in descending order of importance, except that factors 2 and 3 are equal, and factors 4 and 5 are equal:

1. Understanding the General and Specific Requirements and soundness of approach as shown by the applicant's technical proposal. For example, does the applicant:

- Present a workable plan that is innovative and creative, one designed to encourage graduate students promote traffic safety programs;
- Clearly indicate an understanding of the tasks and the problems of this project;
- Represent the manner in which each task can be satisfactorily accomplished;
- Present logical and reasonable solutions that will meet stated project objectives; and
- Does the applicant propose a unique or novel solution superior to the Government's request?

2. Qualifications of personnel to be assigned and person-hours to be spent on the proposed work. For example:

- Do personnel assigned possess the experience, education, background and record of past accomplishments appropriate to the General and Specific Requirements;
- Does the application require substantial requirement of top-level personnel from outside the firm, causing a detriment to operations; and
- Does the application indicate that the applicant depends upon subcontractor support, and if so, are such plans reasonable?

3. Application's completeness and thoroughness in compliance with the General and Specific Requirements, and other RFP requirements. For example:

- Is the application's organization and content in accordance with instructions; are all data germane to the RFP;
- Does the application identify, describe and consider thoroughly each element of the Scope of Work;
- Does the proposer place proper emphasis on the more difficult requirements; and
- Is the application presented in a clear and exact manner?

4. Commitment to complete the Specific Tasks, the Deliverables schedule and meet the other Terms and Conditions. For example:

- Does the application contain a work schedule that includes the accomplishment of each task;
- Proposed work schedule indicates realistically, the satisfactory accomplishment of the task in accordance with the time specified; and
- Does the application indicate that the applicant is willing to commit itself to this program's Objectives, and the requirements of the Specific Tasks statements:

5. Type of organization, past performance and responsibility of applicant in similar projects or activities. For example:

- Has the applicant had previous experience in performing on Government contracts of this type; and
- Has the applicant showed satisfactory performance in contracts on similar type projects, either for the Government or for others?

Upon receipt of applications by the agency, they will be screened to assure that all eligibility requirements have been met. Applications will be reviewed by NHTSA staff using the criteria outlined above, and the results will be the basis of recommendations to NHTSA management for an award.

Terms and Conditions

Contingent on the availability of funds, satisfactory performance, and continued demonstrated need, this cooperative agreement may be awarded for a project period of up to three (3) years. The application for the initial funding period (12 months) should address what is proposed and can be accomplished during the initial 12 month period. The application for the initial period should not include any continuation information, but should cover only the first 12 months of effort. To obtain funding after the initial 12-month period, a continuation application and approval will be required for any subsequent year. Continuation applications will not be subjected to competitive review, but must demonstrate that the continuation effort will effectively and efficiently fulfill program objectives.

Anticipated funding level for the FY 93 cooperative agreement is $45,000.00. Subsequent years may be funded pending the availability of funds, demonstrated need and satisfactory performance. Federal funds should be viewed as seed money to assist organizations in the development of traffic safety initiatives. Monies allocated in this cooperative agreement are not intended to cover all of the costs that will be incurred in completing the project. Applicants should demonstrate a commitment of financial and in-kind resources to the support of the proposed project.

The organization participating in this cooperative agreement program may use the funds awarded to support salaries of individuals assigned to the project, the development or purchase of direct program materials, direct program-related activities, or for travel related to the cooperative agreement.

The recipient of this award will be required to submit quarterly progress reports in a format to be determined after award; the schedule in the Deliverables section shall be revised as needed. In addition, the recipient will be required to submit a Technical Summary and Final Report describing the project and its outcomes no later than sixty (60) days after the termination of this project.

Application Procedure

1. All applications must be "covered" by a signed copy of OMB Standard Form 424 (revised 4/88, including 424A and 424B) "Application for Federal Assistance" with the required information filled in and the certified assurances included. This form is available from: NHTSA, Office of

Contracts and Procurement (NAD–30), 400 Seventh Street SW, Washington, DC 20590, (202 366–0607).

2. Applications shall include a program narrative statement which addresses the following:

Goals and Objectives

Identifies the results and benefits to be derived. States the principle and subordinate objectives of the project. Supporting documentation from concerned interests other than the applicant may be used. Any relevant data should be included or footnoted.

Approach

Outlines a plan of action pertaining to the scope and detail on how the proposed work will be accomplished. Includes the reasons for taking this approach as opposed to other approaches. Describes any unusual features, such as design or technological innovations, extraordinary academic involvement, etc. Provides quantitative projections of the accomplishments to be achieved, if possible, or lists the activities in chronological order to show the schedule of accomplishments and their target dates. Identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate results. Explains the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. Lists each organization, corporation, consultant, or other individual who will work on the project, along with a short description of the nature of their effort or contribution and relevant experience.

3. Format. Applications must be typed on one side of the page only. The original and two copies of each application must be submitted. An applicant may submit an additional four copies to facilitate the review process, but there is no requirement or obligation to do so.

Administration of the Cooperative Agreement

During the effective period of the cooperative agreement awarded as a result of this notice, the agreements shall be subject to general administrative requirements of OMB Circular A–110 (or the "common rule," if effected prior to the award), the cost principles of OMB Circular A–21 or A–22, as applicable to the recipient, and the provisions of 49 CFR, Part 29, Government-wide Debarment and Suspension (nonprocurement).

Issued on: June 22, 1993.

Robert M. Nicholson,

Acting Associate Administrator, Traffic Safety Programs.

[FR Doc. 93–15118 Filed 6–25–93; 8:45 am]

BILLING CODE 4910–59–M

Maritime Administration

Approval of Applicant as Trustee

Notice is hereby given that Ameritrust Texas N.A., with offices at 5599 San Felipe, P.O. Box 3285, Houston, Texas 77253, has been approved as Trustee pursuant to Public Law 100–710 and 46 CFR part 221.

Dated: June 22, 1993.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 93–15139 Filed 6–25–93; 8:45 am]

BILLING CODE 4910–81–M

Change of Name of Approved Trustee

Notice is hereby given that effective July 13, 1992, Ameritrust Company, N.A., with offices at 127 Public Square, Cleveland, Ohio 44114–1306, changed its name to Society National Bank.

Dated: June 22, 1993.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 93–15138 Filed 6–25–93; 8:45 am]

BILLING CODE 4910–81–M

Discretionary Cooperative Agreement To Support the Development of Traffic Safety Materials for State/Local Officials

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Announcement of a discretionary cooperative agreement to support the development of traffic safety materials for State/local government officials.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces the availability of a FY 1993 discretionary cooperative agreement to support the development and focus testing of education and awareness materials for State/local government officials who are responsible for policy decisions in fields where traffic safety concerns are a priority, such as transportation, health and education. The materials will be designed to inform State/local government officials of the cost of motor vehicle crashes and offer strategies to reduce traffic deaths and injuries and their related costs. This notice solicits applications from national non-profit governmental organizations interested in developing and implementing this project.

DATES: Applications must be received at the office designated below on or before 4 p.m., August 13, 1993.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Rose Watson, 400 7th Street, SW., room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–93–Y–05387. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Rose Watson, Office of Contracts and Procurement, at (202) 366–9557. Programmatic questions should be directed to Ms. Susan Gorcowski, Chief, National Organizations Division (NTS–11), NHTSA, room 5118, 400 7th Street, SW., Washington, DC 20590, (202) 366–2712.

SUPPLEMENTARY INFORMATION:

Background

The National Highway Traffic Safety Administration (NHTSA) designs strategies to reduce motor vehicle-related fatalities and injuries. One approach includes the development of awareness and educational materials for public and private sector organizations on the benefits of using occupant restraints and child safety seats in motor vehicles. NHTSA also promotes the passage and enforcement of laws requiring the use of these devices.

Occupant protection systems have proven to be effective at reducing fatalities and serious injuries. In 1990, a survey in 19 U.S. cities indicated a 49 percent belt use rate and a 84 percent child safety seat use rate. During 1990, safety belts saved about 4,600 lives and child restraints saved 222 lives. Had the use of safety belts and child restraints been universal during 1990, an additional 10,000 adult and 250 child lives could have been saved.

In early 1991, NHTSA initiated the National "70% by '92" Campaign, modeled after successful programs in Canada and limited demonstrations in the United States. One component, Operation Buckle Down (OBD), encouraged top level law enforcement personnel to integrate high levels of occupant protection enforcement into

their regular operations. In another component, State and local police promoted public awareness of safety belt and child passenger safety laws for the several weeks surrounding summer holidays. These holiday enforcement activities included press conferences and news events which underscored the importance of using occupant protection systems. In Less than two years, seat belt use rates increased to an all time high of 62 percent, the greatest single increase since the majority of seat belt use laws were passed.

A significant portion of the public does not perceive the failure to use seat belts to be as critical as other "high priority" societal problems, such as rising health care costs, economic decline, and crime. Similarly, many public officials may not recognize the civic benefits of belt use in reducing medical and rehabilitation costs. Successful traffic safety programs have shown that without the support of State/local leaders, it is difficult to get relevant policies and programs enacted, implemented or enforced. As successful as the "70% by 92" campaign was, only 2,000 police jurisdictions—out of approximately 20,000—participated. The number could be dramatically increased in State/local officials understood the cost implications of traffic crashes on the budgets. The estimated $137 billion that traffic crashes cost society annually translates into significant expenditures by State/local governments for: liability claims and coverage; social and emergency medical services; health care programs; and welfare and income support. Increasing the national belt use rate to at least 75 percent by 1996 would reduce national fatalities by 1,850 each year. An additional annual reduction of 1,850 fatalities could be achieved by reducing alcohol involvement in crashed from 46 to 43 percent.

Objective

To develop and focus-test education and awareness materials designed to inform State/local officials of the cost of motor vehicle crashes to their community and offer strategies to reduce traffic deaths and injuries and their related costs. Anticipated outcomes are: (1) An increase in the use of safety belts, child safety seats and other occupant protection devices; and (2) a reduction in alcohol involvement in crashes.

Specific Tasks

The recipient shall, at a minimum, perform the following tasks:

1. Develop educational and awareness materials on the cost of motor vehicle crashes to communities. The materials will include relevant cost data of interest to State/local officials in their understanding of the significance of traffic safety problems. The materials will also include strategies to address the community problems. The materials can include videos, handouts, slide presentations, worksheets, overheads, brochures, sample articles for newsletters, and other items. The recipient will use resource data prepared by NHTSA and other organizations on the societal cost of motor vehicle crashes, cost of injury to employers, benefits of belt use and belt use laws, etc. All drafts shall be reviewed and approved by NHTSA.

2. Produce a "how-to" guide to assist State/local elected/appointed officials to conduct policy forums using the materials prepared for this project. The guide will provide information which State/local officials can use to conduct forums on the cost data applicable to State/local governments, recommendations on how to implement programs to increase the understanding of traffic safety problems, and strategies for addressing these community problems. The "how-to" guide shall be reviewed and approved by NHTSA.

3. Through agreements established with five organizational State/local chapters/affiliates (in five different States), arrange for the conduct of community meetings to "focus test" the materials developed for this project. As a facet of this task, the recipient shall obtain statements from each chapter/affiliate that include (i) a project plan to tract and assess how the materials are to be focus-tested and used; (ii) a budget plan estimating costs for labor, material, etc., including proposed cost-sharing; (iii) a staffing plan, including resumes; and (iv) documentation that the project plan has been coordinated with Governor's Highway Safety Office.

4. Schedule and conduct meetings in the five State/local chapter/affiliate locations selected to focus test the materials developed for this project and prepare a special report on these meetings. Revise materials based upon focus test results.

5. Attend a national conference to enhance the recipient's awareness of current traffic safety technology and programs.

6. Support a project exhibit at the Lifesavers conference. This three-day conference is usually held in the Spring. It is sponsored by highway safety associations, the National Transportation Safety Board, and NHTSA, and attracts about 1,300 highway safety professionals each year. The location of the next conference has not been selected.

7. Prepare and submit quarterly and final performance reports in formats to be determined after award. The final performance report shall at a minimum include a description of the project, an evaluation of the results, and a presentation of the conclusions and recommendations.

Milestones/Deliverables

A final list of milestones/required deliverables will be developed to coincide with the accepted application prior to award. For planning purposes, NHTSA anticipates that the milestones/required deliverables will include the following:

Milestones/deliverables	Date
1. Enter into agreements with affiliates in five States.	3 months after award.
2. Develop educational and awareness materials.	5 months after award.
3. Produce a how-to guide to conduct State/local policy forums.	6 months after award.
4. Convene meetings to focus test materials in five States.	7–10 months after award.
5. Submit special report on the five focus test meetings.	12 months after award.
6. Revise materials based on focus tests results.	14 months after award.
7. Submit periodic performance reports.	Quarterly.
8. Submit final performance report.	16 months after award.

NHTSA Involvement

NHTSA, Office of Occupant Protection, will be involved in all activities undertaken as part of this cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of the cooperative agreement and coordinate activities between the organization and NHTSA.

2. Work with the organization to identify chapter/affiliates located in five States with which agreements will be established to arrange for the conduct of community meetings to "focus test" the materials developed for this project.

3. Provide information and technical assistance from Federal government sources, within available resources and as determined appropriate by the COTR.

4. Provide liaison with other government/private agencies as appropriate.

Period of Support

The period of support for this cooperative agreement is sixteen (16) months and the anticipated funding level is $99,000. Federal funds should be viewed as seed money to assist organizations in the development of ongoing traffic safety initiatives. Monies allocated to this cooperative agreement are not intended to cover all of the costs that will be incurred in completing the project. Applicants should demonstrate a commitment of financial or in-kind resources to the support of this project.

Eligibility Requirements

In order to be eligible to participate in this cooperative agreement, an organization must meet the following requirements:

1. Be a national non-profit organization;
2. Have an established membership structure with State/local chapters or affiliates; and
3. Have a membership consisting exclusively, or in large part, of State/local elected or appointed government officials.

Application Procedures

Each applicant must submit one original and two copies of their application package to: NHTSA, Office of Contracts and Procurement (NAD–30), Attn: Rose Watson, 400 7th Street SW., room 5301, Washington, DC 20590. Submission of four additional copies will expedite processing, but is not required. Applications must be typed on one side of the page only. Applications must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–93–Y–05387. Only complete applications received on or before August 13, 1993, shall be considered.

Application Contents

1. The application package must be submitted with OMB Standard Form 424 (revised 4–88, including 424A and 424B), Applications for Federal Assistance, with the required information filled in and the certified assurances included. While the Form 424–A deals with budget information, and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed breakdown of the proposed costs, as well as any costs which the applicant proposes to contribute in support of this effort. Anticipated funding support to be made available to State/local chapters/affiliates should be indicated.

2. Applications shall include a program narrative statement that addresses the following:

a. Identifies: (i) The organizational membership and purposes; (ii) the past and present organizational experience in similar or related projects involving traffic safety; (iii) the organizational communication mechanisms, such as national/State conventions, monthly/annual training or policy meetings; and (iv) the relationship of the national organization to State/local elected or appointed government policy/decision-making officials and the importance of that relationship to this project. States the principal objectives of the project, as well as anticipated results and benefits. Supporting documentation from concerned interests other than the applicant can be used. Any relevant data should be included or footnoted.

b. Approach:

(1) Outlines a plan of action pertaining to the scope and detail on how the proposed work will be accomplished. The plan will include, but not be limited to: (i) The rationale to be used to identify and select the five State/local chapters/affiliates to participate in this project; (ii) the methods to be used to assess and address the needs of State/local government officials in the development of the awareness materials and "how to" guide; and (iii) the strategy to be used to determine the means of conveying complex cost/data information to State/local government officials which effectively promotes understanding and a proactive response. Includes the reasons for taking this approach as opposed to other approaches.

(2) Provides quantitative projections, if possible, of the accomplishments to be achieved or lists the planned schedule of activities in chronological order.

(3) Identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate results. Explains the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

(4) Lists each organization, corporation, consultant, or other individual who will work on the project, along with a short description of the nature of their effort or contribution, and relevant experience.

Evaluation Criteria and Review Process

Initially, all applications will be reviewed to confirm that the applicant is eligible to participate and that the application contains all of the information required by the Applications Contents section of this notice.

Each complete application from those who are eligible will then be evaluated by an Evaluation Committee. The applications will be evaluated based upon the following factors which are listed in descending order of importance:

1. What the applicant proposes to accomplish and the potential of the proposed project to make a significant contribution to local and national efforts to achieve increased safety belt use, proper child safety seat use, awareness of automatic crash protection systems, driving while not under the influence of alcohol or drugs, and reductions in the costs of motor vehicle crashes.

2. The soundness and feasibility of the proposed approach and the extent to which the applicant's proposed project addresses the needs of State/local government officials.

3. How the organization will provide the administrative capability and staff expertise required to successfully complete the proposed project.

4. The proposed coordination with and use of other available organizational resources, including other sources of financial support.

5. The past and present organizational experience in the performance of similar projects and the effectiveness of organizational communications mechanisms.

Terms and Conditions of the Award

1. Prior to award, the recipient must comply with the certification requirements of 49 CFR part 20—Department of Transportation New Restrictions on Lobbying, if applicable, and 49 CFR part 29—Department of Transportation Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

2. During the effective period of the cooperative agreement awarded as a result of this notice, the agreement shall be subject to the general administrative requirements of OMB Circular A–110, the cost principles of OMB Circular A–122, and the requirements of 49 CFR part 20, if applicable, and 49 CFR part 29.

Issued on: June 22, 1993.

Robert M. Nicholson,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 93–15128 Filed 6–25–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

June 21, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0803
Form Number: IRS Form 5074
Type of Review: Extension
Title: Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI)
Description: This form is used by U.S. citizens or residents as an attachment to Form 1040 when they have $50,000 income from U.S. sources and $5,000 from Guam or Northern Mariana Islands. The data is used by IRS to allocate income tax due to Guam or CNMI as required by 26 U.S.C. 7654.
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 50
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hours, 57 minutes
Learning about the law or the form—5 minutes
Preparing the form—42 minutes
Copying, assembling, and sending the form to the IRS—17 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 202 hours
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–15114 Filed 6–25–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards; Meetings

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held on Monday, July 12, 1993, in room 946, on Tuesday, July 13, 1993, in room 534, and on July 14, 1993, in room 946, 801 I Street, NW., Washington, DC 20004. The meetings will convene at 9 a.m. and adjourn at 5 p.m.

The purpose of the meetings is to review information relating to activities during which significant numbers of veterans were exposed to ionizing radiation before January 1, 1970 (this includes activities other than participation in an atmospheric nuclear test or service with the occupation forces of Hiroshima, or Nagasaki, Japan.)

The meeting is open to the public to the capacity of the room. For those wishing to attend, contact Mrs. Leney Holohan, Department of Veterans Affairs Central Office (026B), 810 Vermont Avenue, NW., Washington, DC 20420, phone (202) 523–3911, prior to July 1, 1993.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Frederic L. Conway, Deputy Assistant General Counsel (026B), Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Dated: June 17, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–15166 Filed 6–25–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 122
Monday, June 28, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the July 8, 1993 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Thursday, July 15, 1993. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: June 24, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–15316 Filed 6–24–93; 3:23 pm]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Amendment to Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on June 8, 1993 (58 FR 32171) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for June 10, 1993. This notice is to amend the agenda to add an item to the open session of that meeting.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board were open to the public (limited space available), and parts of this meeting were closed to the public. The agenda for June 10, 1993, is amended by adding the following item to the open session:

Open Session

B. New Business

2. Other

c. Policy Statement on Regulatory Burden.

Dated: June 24, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–15317 Filed 6–24–93; 3:23 pm]

BILLING CODE 6705–01–P

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), U.S.C. 552b:

DATE AND TIME: June 30, 1993, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 982nd Meeting—June 30, 1993, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 4055–017, Vernon F. Ravenscroft

CAH–2.
Project No. 8864–008, Weyerhaeuser Company

CAH–3
Project No. 3407–042, Magic Reservoir Hydroelectric, Inc.

CAH–4
Project No. 6287–007, Rainsong Company

CAH–5.
Project No. 10177–005, Town of West Stockbridge, Massachusetts

CAH–6.
Docket Nos. HBO8–93A–75–001 and 76–001, Virginia Electric and Power Company

CAH–7.
Project No. 2494–005, Puget Sound Power & Light company

CAH–8.
Docket No. RM90–3–002, California Save Our Streams Council

CAH–9.
Project Nos. 2916–006 and 010, East Bay Municipal Utility District

CAH–10.
Project No. 8185–014, Bluestone Energy Design, Inc.

CAH–11.
Docket Nos. 9085–013 and 014, Richard Balagur

Consent Agenda—Electric

CAE–1.
Docket No. ER93–160–000, Puget Sound Power & Light Company

CAE–2.
Docket Nos. ER92–668–001 and EC92–20–001, Northern Electric Power Company, L.P.

CAE–3.
Docket No. ER93–295–001, Kentucky Power Company and Ohio Power Company

CAE–4.
Docket No. ER93–200–001, Appalachian Power Company

CAE–5.
Docket Nos. ER93–224–000 and 001, Public Service Company of New Hampshire

CAE–6.
Docket No. ER89–48–002, Southern Company Services, Inc.

CAE–7.
Omitted

CAE–8.
Docket No. EL93–1–001, Kramer Junction Company, Harper Lake Company VIII and HLC IX Company

CAE–9.
Docket No. EL91–30–001, Municipal Resale Service Customers v. Ohio Power Company

CAE–10.
Docket No. FA88–62–002, Wisconsin Electric Power Company

CAE–11.
Docket No. EG93–52–000, InterAmerican Energy Leasing Company

CAE–12.
Docket No. AC93–136–000, Oregon Trail Electric Consumers Cooperative, Inc.

CAE–13.
Docket No. ER93–401–000, Montaup Electric Company

CAE–14.
Docket Nos. ER93–96–000 and EL93–11–000, Delmarva Power & Light Company

CAE–15.
Docket Nos. ER93–85–000 and EL93–7–000, Connecticut Yankee Atomic Power Company

CAE–16.
Docket Nos. EL93–26–000 and QF84–433–002, Mesquite Lake Associates, Ltd.

CAE–17.
Omitted

CAE–18.
Docket No. ER93–413–001, Pacific Gas & Electric Company

Consent Agenda—Oil and Gas

CAG–1.
Docket No. RP93–136–000, Transcontinental Gas Pipe Line Corporation
CAG–2.
Docket No. RP93–124–000, Texas Eastern Transmission Corporation
CAG–3.
Omitted
CAG–4.
Docket No. RP93–118–000, Viking Gas Transmission Company
CAG–5.
Docket No. RP93–126–000, Algonquin Gas Transmission Company
CAG–6.
Docket No. RP93–134–000, Algonquin Gas Transmission Company
CAG–7.
Docket No. RP93–122–000, Texas Eastern Transmission Corporation
CAG–8.
Docket No. RP93–125–000, Texas Eastern Transmission Corporation
CAG–9.
Omitted
CAG–10.
Docket No. RP93–129–000, Florida Gas Transmission Company
CAG–11.
Docket No. RP93–132–000, Tennessee Gas Pipeline Company
CAG–12.
Omitted
CAG–13.
Docket Nos. TQ93–5–22–000 and RP93–133–000, CNG Transmission Corporation
CAG–14.
Docket Nos. RP93–127–000 and RP93–102–001, Columbia Gas Transmission Company
CAG–15.
Docket Nos. RP93–53–005, 006 and RP93–110–001, Carnegie Natural Gas Company
CAG–16.
Docket Nos. RP92–237–009 and RS92–27–004, Alabama-Tennessee Natural Gas Company
CAG–17.
Docket No. RP93–130–000, Trunkline Gas Company
CAG–18.
Docket No. RP93–5–012, Northwest Pipeline Corporation
CAG–19.
Docket Nos. RP91–203–031, RS92–23–011 and RP92–132–032, Tennessee Gas Pipeline Company
CAG–20.
Docket Nos. RP92–202–001 and 002, Tennessee Gas Pipeline Company
CAG–21.
Docket No. RP93–4–008, Mississippi River Transmission Corporation
CAG–22.
Docket No. RP88–44–044, El Paso Natural Gas Company
CAG–23.
Docket No. RP93–99–001, Colorado Interstate Gas Commission
CAG–24.
Docket No. OR89–2–002, Trans Alaska Pipeline System
Docket No. IS89–7–003, Amerada Hess Pipeline Corporation
Docket No. IS89–8–003, ARCO Transportation Alaska, Inc.
Docket No. IS89–9–003, BP Pipeline (Alaska), Inc.
Docket No. IS89–10–003, Exxon Pipeline Company
Docket No. IS89–11–003, Mobil Alaska Pipeline Company
Docket No. IS89–12–003, Phillips Alaska Pipeline Corporation
Docket No. IS89–13–003, Unocal Pipeline Company
CAG–25.
Docket Nos. RP85–209–000, RP86–246–000, CP87–524–000, CP88–6–000, CP88–329–000, CP88–440–000, CP88–478–000, IN86–5–000, RP84–42–000, RP84–424–000, RP86–93–000, RP86–158–000, RP87–34–000, RP88–8–000, RP88–27–000, RP88–92–000, RP88–263–000, RP88–264–000, RP88–265–000, RP89–138–000, RP90–91–000, RP91–198–000 and TC88–6–000, United Gas Pipe Line Company
CAG–26.
Docket Nos. RP92–137–008 and RP92–108–003, Transcontinental Gas Pipe Line Corporation
CAG–27.
Docket Nos. RP89–160–015 and RP89–114–009, Trunkline Gas Company
CAG–28.
Docket Nos. TM90–3–42–005, 006, RP90–49–003, CP88–99–014, TM90–5–42–002, 003, RP86–126–007 and RP90–43–002, Transwestern Pipeline Company
CAG–29.
Docket No. RM87–34–067, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (In re: Tennessee Gas Pipeline Company)
Docket Nos. TA91–1–21–003 and TM91–8–21–003, Columbia Gas Transmission Corporation
Docket No. RM85–1–184, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol
Docket No. CP87–115–004, Tennessee Gas Pipeline Company
CAG–30.
Docket No. AC92–22–001, CNG Transmission Corporation
CAG–31.
Docket Nos. RP91–68–016, 015, 012, RP92–161–000, 002, 003, CP79–492–050 and 051, Penn-York Energy Corporation
CAG–31.
Docket Nos. IS90–30–000, IS92–24–000, IS92–25–000, IS92–36–000, IS93–20–000 and OR92–3–000, Amoco Pipeline Company
CAG–33.
Docket No. RP93–8–000, Bridgeline Gas Distribution Company
CAG–34.
Docket No. RM91–8–002, Qualifying Certain NGPA Section 107 Gas for Tax Credit
CAG–35.
Docket No. GP93–5–000, Railroad Commission of Texas, Texas-81, Spraberry Formation, JD93–00008T
CAG–36.
Docket Nos. RS92–60–015, RP88–44–042, RP89–189–005, RP91–188–000, RP92–214–000, CP89–1540–005, CP90–2214–005, CP92–446–001, CP92–511–001, CP93–180–002, RP93–19–001 and CI93–8–001, El Paso Natural Gas Company
CAG–37.
Docket No. RS92–87–016, Transwestern Pipeline Company
CAG–38.
Docket Nos. RS92–16–002, RP91–187–010 and CP91–2448–004, Florida Gas Transmission Company
CAG–39.
Docket Nos. RS92–13–002, CP92–487–041, RP86–10–021, RP89–34–007, RP92–163–005, RP92–170–005 and RP92–236–003, Williston Basin Interstate Pipeline Company
CAG–40.
Docket Nos. RS92–43–002 and RP93–4–009, Mississippi Basin Interstate Pipeline Company
CAG–41.
Docket No. CP89–710–010, Transcontinental Gas Pipe Line Corporation
Docket No. CP88–171–028, Tennessee Gas Pipeline Company
CAG–42.
Docket Nos. CP93–118–001, CP93–132–001, CP93–133–001, CP93–135–001, CP93–142–001, CP93–143–001, CP93–144–001 and CP93–174–001, High Island Offshore System
CAG–43.
Docket No. CP87–312–008, Texas Eastern Transmission Corporation
CAG–44. Omitted
CAG–45. Omitted
CAG–46.
Docket No. CP92–6–008, Southern Natural Gas Company and South Georgia Natural Gas Company
Docket No. CP92–311–006, Southern Natural Gas Company
CAG–47.
Docket No. CP92–142–001, CNG Transmission Corporation
Docket No. CP92–165–001, Texas Eastern Transmission Corporation
CAG–48.
Docket Nos. CP92–184–000, 001 and 002, Texas Eastern Transmission Corporation
Docket Nos. CP92–185–000, 001 and 002, Algonquin Gas Transmission Company
CAG–49.
Docket Nos. CP90–316–004 and CP90–317–003, Empire State Pipeline
CAG–50.
Docket No. CP89–892–005, Great Lakes Gas Transmission Limited Partnership
CAG–51.
Docket No. RM93–16–001, Revisions to the Regulations Governing Natural Gas Pipelines
CAG–52.
Docket No. CP92–459–000, Texas Eastern Transmission Corporation
Docket No. CP92–460–000, Trunkline Gas Company
CAG–53.
Docket No. CP93–247–000, Southern Natural Gas Company
CAG–54.
Docket No. CP93–95–000, Amoco Production Company and United Gas Pipe Line Company
CAG–55.

Docket No. CP93–325–000, Granite State Gas Transmission, Inc.

CAG–56.
Omitted

CAG–57.
Docket No. CP93–186–000, Blue Ridge Pipeline Company
Docket No. CP93–187–000, Transcontinental Gas Pipe Line Corporation

CAG–58.
Docket No. CP93–254–000, Ormat Inc.

CAG–59.
Docket Nos. CP92–406–000 and 001, Michigan Consolidated Gas Company

CAG–60.
Omitted

CAG–61.
Docket No. CP92–668–001, Southern Natural Gas Company and South Georgia Natural Gas Company

CAG–62.
Docket Nos. RP85–39–010 and 011, Wyoming Interstate Company, Ltd.

CAG–63.
Docket Nos. RS92–86–004, RP92–108–006 and RP92–137–016, Transcontinental Gas Pipe Line Corporation

CAG–64.
Docket No. RP93–6–009, Paiute Pipeline Company

Hydro Agenda

H–1.
Omitted

Electric Agenda

E–1.
Docket Nos. EC92–21–000 and ER92–806–001, Entergy Services, Inc. and Gulf States Utilities Company. Order on rehearing of order on proposed merger.

E–2.
Docket No. EC93–6–000, Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI). Order on proposed merger.

E–3.
Omitted

E–4.
Docket No. RM93–19–000, Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act. Request for comments on pricing policy for transmission by public utilities.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Dooket No. RM93–11–000, Revisions to Oil Pipeline Regulations Pursuant to Energy Policy Act of 1992. Notice of Proposed Rulemaking.

II. Restructuring Matters

RS–1.
Docket No. RS92–26–000, United Gas Pipe Line Company. Order on compliance.

RS–2.
Docket Nos. RS92–46–000 and 002, Pacific Gas Transmission Company. Order on compliance.

RS–3.
Omitted

RS–4.
Docket Nos. RS92–78–001 and 002, Sabine Pipeline Company. Order on compliance.

RS–5.
Docket No. RS92–35–000, Gas Transport, Inc. Order on compliance.

RS–6.
Docket No. RS92–57–000, Canyon Creek Compression Company, Order on compliance.

RS–7.
Docket No. RS92–63–000, Great Lakes Gas Transmission Limited Partnership. Order on compliance.

RS–8.
Docket Nos. RS92–22–005, 006 and 008, Panhandle Eastern Pipe Line Company. Order on compliance and rehearing.

RS–9.
Docket Nos. RS92–23–008, RP91–203–027 and RS92–132–009, Tennessee Gas Pipeline Company. Order on compliance and rehearing.

RS–10.
Docket Nos. RS92–65–001 and 002, Kern River Gas Transmission Company. Order on compliance filing.

RS–11.
Docket Nos. RS92–66–001 and 002, Mojave Pipeline Company. Order on compliance.

III. Pipeline Certificate Matters

PC–1.
Reserved

Dated: June 23, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–15328 Filed 6–24–93; 3:40 pm]

BILLING CODE 6717–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, July 2, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 24, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–15343 Filed 6–24–93; 3:59 pm]

BILLING CODE 6210–01–P

federal register

Monday
June 28, 1993

Part II

Department of Health and Human Services

Administration for Children and Families

Developmental Disabilities: Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631-92-03]

Developmental Disabilities: Availability of Financial Assistance for Projects of National Significance for Fiscal Year 1993

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF).

ACTION: Announcement of availability of financial assistance for Projects of National Significance for Fiscal Year 1993.

SUMMARY: The Administration on Developmental Disabilities, Administration for Children and Families, announces that applications are being accepted for funding of Fiscal Year 1993 Projects of National Significance.

This program announcement consists of five parts. Part I, the Introduction, discusses the goals and objectives of ACF and ADD. Part II provides the necessary background information on ADD for applicants. Part III describes the review process. Part IV describes the priorities under which ADD solicits applications for Fiscal Year 1993 funding of projects. Part V describes in detail how to prepare and submit an application. All of the forms and instructions necessary to submit an application are published as part of this announcement following Part V.

No separate application kit is either necessary or available for submitting an application. If you have a copy of this announcement, you have all the information and forms required to submit an application.

Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

DATES: Closing date for submittal of applications under this announcement is August 12, 1993.

ADDRESSES: Applications should be sent to: Department of Health and Human Services, ACF/Division of Discretionary Grants, 200 Independence Avenue, S.W., Room 341-F, Washington, D.C. 20201, Attn: 93.631 ADD—Projects of National Significance.

FOR FURTHER INFORMATION CONTACT: Kay Smith, Program Development Division, Administration on Developmental Disabilities, (202) 690-5984.

SUPPLEMENTARY INFORMATION:

Part I. Introduction

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific populations it serves, ADD shares a common set of goals:

- To create and stimulate self-sufficiency in our target populations;
- To promote parental responsibility for their children financially as well as for their social, emotional, physical and cognitive development;
- To encourage the integration of services among specialized service providers to eliminate fragmentation, reduce duplication and improve the impact of ACF services on children and families.
- Emphasis on these goals and progress toward them will help more persons with developmental disabilities to live productive and independent lives integrated into communities. It is through the Projects of National Significance Program that ADD attempts to promote the achievement of these goals.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of persons with developmental disabilities.

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000, *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that persons with developmental disabilities receive the services and other assistance and opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity and integration into the community.

The Act emphasizes that persons with developmental disabilities include those with severe functional limitations attributable to physical impairments, mental impairments, and combinations of physical and mental impairments. It recognizes that, notwithstanding their severe disabilities, these persons have capabilities, competencies, and personal needs and preferences. In addition, it points out that a substantial portion of persons with developmental disabilities remain unserved or underserved.

The Act also stresses that the family and members of the community can play a central role in enhancing the lives of persons with developmental disabilities, especially when the family is provided with the necessary support services; that public and private employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings; and that it is in the national interest to offer persons with developmental disabilities the opportunity to make decisions for themselves and to live in homes and communities where they can exercise their full rights and responsibilities as citizens.

In administering the Act at the Federal level, ADD seeks to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential (through self-advocacy and empowerment); in supporting the increasing ability of persons with developmental disabilities to perform leadership functions, and to determine changes of their choice; and in ensuring the protection of the legal and human rights of these individuals.

Programs funded under the Act are:

- Basic State formula grants;
- State system for the protection and advocacy of individual rights;
- Grants to University Affiliated Programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

Part II. Background Information

A. Description of Projects of National Significance

Under Part E of the Act, grants and contracts are awarded for projects of national significance to increase and support the independence, productivity, and integration into the community of persons with developmental disabilities, and to support the development of national and state policy which enhances the independence, productivity, and integration of these individuals. These projects may include, but are not limited to:

- Projects to conduct data collection and analysis,
- Projects to provide technical assistance to program components;

- Projects to provide technical assistance for the development of information and referral systems;
- Projects which improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness;
- Projects to educate policymakers;
- Projects to pursue Federal interagency initiatives;
- Projects that support the enhancement of minority participation in public and private sector initiatives in developmental disabilities; and
- Other projects of sufficient size and scope, and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups).

B. Comments on FY 1992 and FY 1993 Proposed Priority Areas

1. FY 1992 Proposed Priority Areas

A public comment notice on ADD's FY 1992 proposed priority areas was published in the **Federal Register** on March 20, 1992. In soliciting comments on the priority areas for FY 1992, we specifically asked for feedback and recommendations concerning research, demonstration, evaluation, training or technical assistance projects which address areas of existing or evolving national significance related to the field of developmental disabilities. We also asked for suggestions for topics which were timely and related to specific needs in the field of developmental disabilities.

ADD received a total of 24 letters and 36 individuals comments in response to the FY 1992 announcement.

Agencies and organizations which commented were identified as follows:

- Advocacy agencies, which included national organizations, state DD Councils, state advocacy groups, and local advocacy groups;
- Service organizations, which included agencies which provide services for individuals with developmental disabilities as well as providing advocacy services on behalf of a particular disability;
- Educational institutions, which included universities, programs located with a university setting (CA/N, R&TC, UAPs and liberal arts colleges);
- Private agencies, which included foundations and non-profit organizations; and
- Government agencies, which included Federal, state, county and local government entities.

Comments were either supportive of what ADD proposed for FY 1992 or recommended other priorities relating to the mission of the particular agency submitting the comments.

Comment: 12 comments recommended that ADD consider additional priority areas for FY 1992. Some examples of suggested priority areas include the following: funding initiatives on improving the quality of life for persons with developmental disabilities; setting aside funds for innovative "special-needs" housing projects that target persons with physical disabilities, especially for the young adult population; funding projects that provide opportunities for creative and cultural experiences in the lives of children and adults with developmental disabilities; developing systems capacity for people who meet the Federal definition of developmental disabilities; demonstrating innovative methods and collaborative approaches to providing protection and advocacy services to Native Americans with developmental disabilities; and developing a means of support for local projects that place a strong focus on systems change through community development, awareness, and education.

Response: ADD's FY 1993 funding priority on home ownership addresses the issue of improving the quality of life and affecting systems change of persons with developmental disabilities covering the entire age span. This priority area also focuses on community integration and full inclusion of persons with developmental disabilities.

The PNS projects funded in FY 1991 will continue in FY 1993 to focus on self-advocacy and empowerment; youth leadership; and cultural diversity.

ADD is involved in activities with the DD network in Arizona, New Mexico and Utah to work with the Navajo, Hopi, San Juan Southern Paiute Nations to strengthen the collaborative process and lead to an action plan to benefit the Native Americans involved.

The comments and recommendations for additional priority areas will be considered during future funding cycles.

Comment: ADD received eight comments on proposed Priority Area 1, Technical Assistance for Implementing the National Agenda. The majority of the comments in this priority area were supportive of what we proposed, and commended ADD for continuing its efforts on the "Leadership Through Collaboration" initiative. One organization noted that the technical assistance provided through this initiative would promote innovative, effective and outcome-oriented collaboration among all network components of the DD network and the principal organizations involved with people with developmental disabilities in the U.S.

Response: The above comments are representative of the comments received in this proposed priority area. ADD is continuing its efforts in implementing the National Agenda, although the activities will be completed through existing programs and projects.

Comment: ADD received six comments on proposed Priority Area 2, Continuation Grant Awards. The comments in this priority area were supportive of what we proposed. One organization concurred, but expressed concern that the data collection initiatives were not specifically mentioned. They suggested the continuation of these projects since they represent the only developmental disability-specific longitudinal data available to advocates and policymakers. A university commented that they recognized the need for ADD to frequently review its priority area development, but urged ADD to continue its focus on the ongoing data collection area. The university also enclosed 89 letters from 48 states and the District of Columbia supporting the continuation of the data collection projects.

Response: The above comments are representative of the comments received in this proposed priority area. We agree with the comments, and the final FY 1993 priority areas will include ongoing data collection.

Comment: ADD received six comments on proposed Priority Area 3, Technical Assistance. The majority of the comments received in this priority area were supportive of what we proposed. Two agencies submitted comments suggesting that we conduct a topic specific conference in the area of aging and community integration that would be directed toward providing technical assistance.

Response: The above comments are representative of the comments received in this proposed priority area. ADD continues to fund aging projects through the University Affiliated Program's Training Initiative Program. Community integration will be addressed in the FY 1993 priority area on home ownership.

Comment: ADD received seven general comments. They consisted of letters of support, letters applauding ADD and its efforts in conducting the "Leadership Through Collaboration" initiative, and letters making suggestions on the particular organization's specific interest and focus.

Response: The comments in these letters will be used, as appropriate, in subsequent funding years.

(The final outcome for the PNS program in FY 1992 was as follows: ADD funded continuation grants and awarded funds to provide technical assistance to improve the functions of the University Affiliated Program. We did not make any new grant awards in FY 1992, but instead, emphasized the provision of technical assistance for the implementation of the Commissioner's national initiative, "Leadership through Collaboration." We extend our appreciation to those agencies and organizations that submitted comments to our FY 1992 public comment notice.)

2. FY 1993 Proposed Priority Areas

A public comment notice on ADD's FY 1993 proposed priority areas was published in the **Federal Register** on June 11, 1992. It requested specific comments and suggestions concerning the proposed priority areas, in addition to recommendations for project activities which would advocate for public policy change and community acceptance of all people with developmental disabilities and their families. We also expressed an interest in projects which would promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life; which would promote the interaction between persons with and without developmental disabilities; and which would recognize the contributions of these individuals (whether they have a disability or not) as such individuals share their talents at home, school, work and in recreation and leisure time.

The proposed priority areas for FY 1993 were based on the legislatively mandated activities, current ACF and Departmental priority initiatives, and the needs expressed by the field of developmental disabilities to support the development of national and state policy which enhances the independence, productivity, and integration of persons with developmental disabilities.

An analysis of the comments in response to the FY 1993 public comment notice published in the **Federal Register** on June 11, 1992, follows.

ADD received a total of 175 letters and 332 individual comments from the following kinds of agencies and organizations:

- Advocacy agencies, which included national organizations, state DD Councils, state advocacy groups, and local advocacy groups;
- Service organizations, which included agencies which provide services for individual with developmental disabilities as well as providing advocacy services on behalf of a particular disability;
- Educational institutions, which include universities, programs located within a university setting (CA/N, R&TC, UAPs and liberal arts colleges);
- Private agencies, which included foundations and nonprofit organizations;
- Government agencies, which included Federal, state, county and local government entities;
- Private individuals; and
- Business organizations.

Most comments were supportive of ADD's proposed priorities, elaborated on what was proposed, and/or recommended priorities relating to the mission of the particular agency submitting the comments, e.g., head injuries, cerebral palsy, epilepsy, etc.

The comments received were helpful in highlighting the concerns of the developmental disabilities field and have been used in refining the final priority areas that appear later.

Comment: 118 comments recommended that ADD consider additional priority areas for FY 1993, among them, funding a national self-advocacy organization; publishing Federal interagency priorities in the announcement and providing an indication of the priority they would receive; targeting a funding effort that would enable the UAPs and DDPCs to focus on training community leaders from both the developmental disabilities and aging networks to become change agents and magnets for others with like interests; funding projects in ethics and bioethics; and funding projects on recreation and leisure. Two general comments supported the priorities as proposed.

Response: ADD funded six self-advocacy and empowerment projects in Fiscal Years 1991 and 1992. We continue to fund those activities. ADD has revised priority area 2 to include "self" in the word "advocacy." We will also consider funding a national self-advocacy organization in future PNS announcements.

ADD continues to fund activities with the following agencies through interagency agreements: Center for Mental Health Services, (formerly the National Institute on Mental Health) on advocacy services and programs for persons with developmental disabilities and mental illness; Health Resources Services Administration on minority health; and the Administration on Native Americans and Indian Health Service for a Fetal Alcohol Syndrome prevention project. ADD will consider including Federal interagency initiatives in future PNS announcements.

ADD continues to fund projects on elderly persons with disabilities through the University Affiliated Program's Training Initiative component.

ADD will consider including ethics/bioethics and recreation/leisure as specific priority areas in future PNS announcements.

ADD appreciates the suggestions for additional priority areas for this fiscal year. However, we are unable to add new priority areas at this time because of budget limitations for FY 1993. These recommendations will be considered during the next year's public comment process.

Comment: ADD received 55 comments on proposed Priority Area 1, Home of One's Own. Most of the comments in this priority area were supportive of what ADD proposed, while some provided specific suggestions for how the projects should be funded (based on the particular focus of the organization submitting the comments). A large number of letters were submitted regarding the establishment of a national technical information dissemination center on home ownership.

Response: The above comments are representative of the comments received in this priority area. We have considered these suggestions and have revised the final Home of Your Own Priority area to address the establishment of an information and development network on consumer based housing that will have a coordinated and national focus rather than one on local networks.

Comment: ADD received 36 comments on proposed Priority Area 2, Personal Assistance Services (PAS). Most commenters expressed appreciation for the development of this particular priority area. They suggested that ADD focus on the delivery of personal assistance services.

Response: The above comments are representative of the comments received in this priority area. We agree with the comments, and the final PAS priority area reflects the delivery of services approach.

Comment: ADD received 41 comments on proposed Priority Area 3, Leadership/Advocacy. In addition, ADD received over one hundred individual comments suggesting we fund a national self-advocacy organization (we had inadvertently omitted self-advocacy from our priority area list). Most of the comments received were supportive of what we proposed, but suggested that

we focus our leadership/advocacy efforts on self-advocacy by primary consumers rather than by coalitions.

Response: The final Leadership/Advocacy priority reflects "self" as part of all of the leadership/advocacy activities.

Note: A reduction in the appropriation level for the PNS program in FY 1993 has resulted in limiting funds now available for new grant awards. Therefore, ADD is reducing the number of funding priorities by combining proposed Priority Areas 2 (PAS) and 3 (Leadership/Advocacy) to focus specifically on leadership and self-advocacy as it relates to Personal Assistance Services and labeling it Priority Area 2, Personal Assistance Services (PAS) Through Leadership and Self Advocacy.

Comment: ADD received 37 comments on Proposed Priority Area 4, Community Integration. Most commenters supported this priority area, suggesting that we provide technical assistance in the areas related to inclusion and target our efforts toward people with disabilities and their families.

Response: These comments are representative of the comments received in this priority area. They stress our focusing on community programs, services, and activities, and full inclusion of all persons with disabilities and their families. As a result of these comments and budget limitations already identified for FY 1993, the final priority area on community integration has been combined with the home ownership priority area to reflect these concerns, in part, and to focus specifically on full inclusion and individual control and choice. It has been renumbered as Priority Area 1, Community Integration Through Consumer Responsive Living Arrangements and Housing.

Comment: ADD received 14 comments on Proposed Priority Area 5, Ongoing Data Collection and Information Dissemination. Primarily, the comments were supportive of what ADD proposed.

Response: As a result of the comments received, ADD's final priority area continues to focus on the collection of data on public expenditures, employment and economic status.

Comment: ADD received 29 comments on proposed Priority Area 6, Technical Assistance Projects. Primarily, the comments were supportive of what ADD proposed. However, the comments also suggested that we change our focus and redirect our efforts toward persons with disabilities and their families rather than our affiliate agencies.

Response: The technical assistance component of the PNS program is one of the activities identified in ADD's legislation that is targeted towards supporting the developmental disabilities program components. Many of the technical assistance activities that are proposed by the national organizations applying for technical assistance funding specifically address and target communities and families of persons with developmental disabilities. Therefore, this priority area remains as it was proposed.

Part III. The Review Process

A. Eligible Applicants

Before applications are reviewed, each application will be screened to determine that the applicant organization is a non-profit agency or organization, as specified under the selected priority area. Applications from organizations which do not meet the eligibility requirements for the priority areas will not be considered or reviewed in the competition, and the applicant will be so informed.

Only agencies and organizations, not individuals, are eligible to apply under any of the priority areas. On all applications developed jointly by more than one agency or organization, the applications must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations can be included as co-participants, subgrantees or subcontractors.

Any non-profit agency which has not previously received Federal support must submit proof of non-profit status with its grant application. The non-profit agency can accomplish this by either making reference to its listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations or submitting a copy of its letter from the IRS under IRS Code section 501(c)(3). ADD cannot fund a non-profit applicant without acceptable proof of its non-profit status.

B. Review Process and Funding Decisions

Applications from eligible applicants that meet the deadline date requirements under Part V, Section C will be reviewed and scored competitively. Experts in the field, generally persons from outside of the Federal government, will use the appropriate evaluation criteria listed later in this Part to review and score the applications. The results of this review are a primary factor in making funding decisions.

ADD reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. It may also solicit comments from ADD Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ADD in making funding decisions.

In making decisions on awards, ADD may give preference to applications which focus on or feature: minority populations; a substantially innovative strategy with the potential to improve theory or practice in the field of human services; a model practice or set of procedures that holds the potential for replication by organizations involved in the administration or delivery of human services; substantial involvement of volunteers; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-federal funds available for the proposed project; the potential for high benefit for low Federal investment; a programmatic focus on those most in need; and/or substantial involvement in the proposed project by national or community foundations.

To the greatest extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ADD may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Criteria

There are two sets of evaluation criteria: demonstration and training applications (priority areas 1 and 2) will be evaluated against one set, while research applications (priority area 3) will be evaluated against another set. Using the appropriate evaluation criteria below (see sections C.1. and C.2.), a panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. Applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each proposal in terms of the appropriate evaluation criteria listed below, provide

comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process.

1. *Demonstration and Training Projects* (Priority Areas 1 and 2)

Applications under priority areas 1 and 2 will be evaluated against the following criteria.

A. *Objectives and Need for Assistance (20 points)* The extent to which the application pinpoints any relevant physical, economic, social, financial, institutional or other problems requiring a solution; demonstrates the need for the assistance; states the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant; and includes and/or footnotes relevant data based on the results of planning studies. The application must identify the precise location of the project and area to be served by the proposed project. Maps and other graphic aids may be attached.

B. *Results or Benefits Expected (20 points)* The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the proposal, and the extent to which the application indicates the anticipated contributions to policy, practice, theory and/or research. The extent to which the proposed project costs are reasonable in view of the expected results.

C. *Approach (35 points)* The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements; and provides for projections of the accomplishments to be achieved. It lists the activities to be carried out in chronological order, showing a reasonable schedule of accomplishments and target dates.

The extent to which, when applicable, the application identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate the results and successes of the project. The extent to which the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. The application also lists each organization, agency, consultant, or other key individuals or groups who will work on the project, along with a description of the activities and nature of their effort or contribution.

D. *Staff Background and Organization's Experience (25 points)* The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The applicant describes the relationship between this project and other work planned, anticipated or underway by the applicant which is being supported by Federal assistance.

2. *Research Projects* (Priority Area 3)

Applications submitted under priority area 3—Ongoing Data Collection will be evaluated using the evaluation criteria below:

A. *Objectives (15 points)* The extent to which the application concisely states the specific objectives of the project and describes what the research project is intended to accomplish. The research issue(s) to be addressed or the specific theory driven question(s) to be answered and the hypothesis(es) to be tested are well formulated. (The response to this criterion should be reflected in the "Objectives and Need for Assistance" section of the Program Narrative Statement.)

B. *Background and Significance (15 points)* The extent to which the application effectively discusses the current state of knowledge relative to the issue or area that is addressed, and provides a review of the literature, including previous work of the author(s) of the proposal (a list of references must be included with the application). The results of any pilot tests are described. The application indicates how the proposed research will build on the current knowledge base and contribute to policy, practice and future research. (The response to this criterion should be reflected in the "Objectives and Need for Assistance" section of the Program Narrative Statement.)

C. *Approach (45 points)* The extent to which the application delineates how the terms used in the study will be defined and operationalized, identifies variables and data sources, and discusses the selection, adaptation or development of instruments to be used, including information on reliability and validity. The application outlines the experimental design features and the procedures for data collection, processing, analysis and interpretation. As applicable, it includes a sampling plan for the selection of site(s) and subjects. The sample sizes must be sufficiently large for both statistical power and significance.

The application describes the characteristics of the target population, utilizing approaches that are culturally sensitive, and details recruitment procedures for the study subjects. For intervention studies, the theory base, ecological setting, and level of intervention are described. The application discusses any potential difficulties in the proposed procedures, provides realistic estimates of attrition and discusses statistically appropriate ways of adjusting the sample.

The extent to which the application reflects sensitivity to ethical issues that may arise, such as potential deception, delayed or diminished treatment for control groups placed on waiting lists, provision for treatment and removal from the project if a potentially dangerous behavior is exhibited, plans for stopping an intervention that proves harmful or unsuccessful, or lag in debriefing the subject. The extent to which the applicant addresses procedures for the protection of human subjects, confidentiality of data and consent procedures. (Where applicable, a Protection of Human Subjects Assurance must be included with the application, in addition to the other required assurances.)

The extent to which the application indicates that the data sets will be prepared according to sound documentation practices and that the final report will be prepared in a format that ensures its ease for dissemination and utilization. The application proposes strategies for dissemination of findings in a manner that will be of use to researchers and practitioners in the field.

The extent to which the application outlines a sound and workable plan of action and details how the proposed work will be accomplished. The activities to be carried out are listed in chronological order, showing a reasonable schedule of accomplishments and target dates. The application includes an adequate staffing plan that lists key staff and consultants along with their responsibilities on the project, and that allocates a sufficient amount of time for each person to these activities. The application delineates how the research team will be assembled and the use of any advisory panels. It also lists each organization, agency, or other key

groups that will work on the project, along with a description of their activities and training plans. The application indicates the ability to gain access to necessary information, data and clients. A sound administrative framework for maintaining quality control over the implementation and operation of the study is detailed. The author(s) of the application and his/her role in the proposed project is/are identified. (Letters of commitment, where appropriate, must be included with the application.) The proposed project costs are reasonable, and the funds are appropriately allocated across component areas and are sufficient to accomplish the objectives. (The response to this criterion should be reflected in the "Approach" section of the Program Narrative Statement.)

D. *Staff Background and Organization's Experience (25 points)* The extent to which the application describes the background, experience, training and qualifications of the key staff and consultants, including work on related research and similar projects. It describes the personal resources available for sampling, experimental design, statistical analysis and field work. Key personnel have a working knowledge of the proposed research and are geographically accessible. (Two Curriculum vitae for each key person must be included with the application.) The adequacy of the available facilities and organizational experience related to the tasks of the proposed project are detailed. (A two page organizational capability statement must be included with the application.) Any collaborative efforts with other organizations, including the nature of their contribution to the project, are described. (Letters of commitment, where appropriate, must be included with the application.)

The extent to which the application demonstrates the ability of the staff and organization to effectively and efficiently administer a project of the size, complexity and scope proposed. It further reflects the capacity to coordinate activities with other agencies for the successful accomplishment of project objectives. The application describes the relationship between this project and other work planned, anticipated or underway by the applicant which is being supported by Federal assistance. (The response to this criterion should be reflected in the "Staff Background and Organization Experience" section of the Program Narrative Statement.)

D. Structure of Priority Area Descriptions

Each priority area description is composed of the following sections:

- *Eligible Applicants:* This section specifies the type of organization which is eligible to apply under the particular priority area.
- *Purpose:* This section presents the basic focus and/or broad goal(s) of the priority area.
- *Background Information:* This section briefly discusses the legislative background as well as the current state-of-the-art and/or current state-of-practice that supports the need for the particular priority area activity. Relevant information on projects previously funded by ACF and/or others State models are noted, where applicable. Some priority areas specify individuals to contact for more information.
- *Minimum Requirements for Project Design:* This section presents the basic set of issues that must be addressed in the application. Typically, they relate to project design, evaluation, and community involvement. This section also asks for specific information on the proposed project. Inclusion and discussion of these items is important since they will be used by the reviewers in evaluating the applications against the evaluation criteria. Project products, continuation of the project effort after the Federal support ceases, and dissemination/utilization activities, if appropriate, are also addressed.
- *Project Duration:* This section specifies the maximum allowable length of time for the project period; it refers to the amount of time for which Federal funding is available.
- *Federal Share of Project Costs:* This section specifies the maximum amount of Federal support for the project.
- *Matching Requirement:* This section specifies the minimum non-Federal contribution, either through cash or in-kind match, that is required to the maximum Federal funds requested for the project.
- *Anticipated Number of Projects To Be Funded:* This section specifies the number of projects that ADD anticipates it will fund in the priority area.
- *CFDA:* This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in this priority area will be funded. This information is needed to complete item 10 on the SF 424.

Please note that applicants that do not comply with the specific priority area requirements in the section on "*Eligible Applicants*" will not be reviewed.

Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. In addition, previous experience has shown that an application which is broader and more general in concept than outlined in the priority area description is less likely to score as well as one which is more clearly focused on and directly responsive to the concerns of that specific priority area.

E. Available Funds

ADD intends to award new grants and cooperative agreements resulting from this announcement during the fourth quarter of fiscal year 1993, subject to the availability of funding. The size of the actual awards will vary. Each priority area description includes information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term "budget period" refers to the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. The term "project period" refers to the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose project periods which are shorter than the maximums specified in the various priority areas. Non-Federal share contributions may exceed the minimums specified in the various priority areas when the applicant is able to do so.

For multi-year projects, continued Federal funding beyond the first budget period is dependent upon proof of satisfactory performance and the availability of funds from future appropriations.

F. Grantee Share of Project Costs

Other than the exception described below, Federal funds will be provided to cover up to 75% of the total allowable project costs. Therefore, the non-Federal share must amount to at least 25% of the total (Federal plus non-Federal) project cost. This means that, for every $3 in Federal funds received, up to the maximum amount allowable under each priority area, applicants must contribute at least $1.

For example, the cost breakout for a project costing $100,000 to implement would be:

Federal request	Non-Federal share	Total cost
$75,000	$25,000	$100,000
75%	25%	100%

The exception to the grantee cost sharing requirement relates to applications originating from American Samoa, Guam, the Virgin Islands, Palau and the Commonwealth of the Northern Mariana Islands. Applications from these areas are covered under Section 501(d) of Public Law 95–134, which requires that the Department waive "any requirement for local matching funds for grants under $200,000."

The applicant contribution must generally be secured from non-Federal sources. Except as provided by Federal statute, a cost-sharing or matching requirement may not be met by costs borne by another Federal grant. However, funds from some Federal programs benefitting Tribes and Native American organizations have been used to provide valid sources of matching funds. If this is the case for a Tribe or Native American organization submitting an application to ADD, that organization should identify the programs which will be providing the funds for the match in its application. If the application successfully competes for PNS grant funds, ADD will determine whether there is statutory authority for this use of the funds. The Administration for Native Americans and the DHHS Office of General Counsel will assist ADD in making this determination.

The non-Federal share of total project costs may be in the form of grantee-incurred costs and/or third party in-kind contributions. ADD strongly encourages applicants to meet their match requirement through a cash contribution, as opposed to an in-kind contribution. For further information on in-kind contributions, refer to the instructions for completing the SF 424A—Budget Information, in Part IV.

The required amount of non-Federal share to be met by the applicant is the amount indicated in the approved application. Grant recipients will be required to provide the agreed upon non-Federal share, even if this exceeds 25% (or other required portion) of the project costs. Therefore, an applicant should ensure the availability of any amount proposed as match prior to including it in its budget.

The non-Federal share must be met by a grantee during the life of the project. Otherwise, ADD will disallow any unmatched Federal funds.

G. Cooperation in Evaluation Efforts

Grantees funded under the Ongoing Data Collection priority area may be requested to cooperate in evaluative efforts funded by ADD. The purpose of these evaluation activities is to learn from the combined experience of multiple projects funded under a particular priority area. To the degree possible, grantees under this priority area will be expected to coordinate their data gathering efforts with one another, as appropriate, under the direction of an ADD-supported evaluator.

H. Closed Captioning for Audiovisual Efforts

Applicants are encouraged to include "closed captioning" in the development of any audiovisual products.

Part IV. Fiscal Year 1993 Priority Areas for Projects of National Significance

The following section presents the final priority areas for Fiscal Year 1993 Projects of National Significance (PNS) and solicits the appropriate applications.

Fiscal Year 1993 Priority Area 1: Community Integration Through Consumer Responsive Living Arrangement and Housing

(This priority area combines Proposed Fiscal Year 1993 Priority Area 1: Home of One's Own and Proposed Fiscal Year 1993 Priority Area 4: Community Integration)

- *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies and coalitions of eligible applicants.
- *Purpose:* Under this priority area, ADD will award grant funds through a cooperative agreement which will enable people with developmental disabilities to achieve maximum community integration, in stable living environments, through the dissemination of state-of-the-art housing and support service models. This project will disseminate best practices, develop training materials in substantive topical areas, publish technical information and furnish on-site support activities.
- *Background Information:* ADD, as part of its general mission to facilitate the independence, productivity and integration (IPI) of individuals with developmental disabilities, conducted a national forum to obtain broad-based input from consumers, family members, advocates, and researchers to determine areas to which devotion of resources would most likely benefit this population. Developing and expanding options for community integration through housing that incorporates consumer control and choice in integrated, community settings was identified as a top priority.

ADD developed the final priority area on housing after obtaining information on pertinent issues emerging in the independent, integrated housing movement characterized by community membership and functional supports. The final priority area reflects consultation with a variety of sources nationwide including results of our previously funded demonstration projects (Fiscal years 1991–1993), individuals with developmental disabilities, public policymakers, advocates, technical experts on housing and disability issues, practitioners in the field, staff input and research, and public comments submitted in response to the FY 1993 Notice of Proposed Priority Areas.

The goals of IPI for individuals with developmental disabilities in the past have constituted prerequisites for community integration. ADD's PNS demonstration projects and other selected, local initiatives show that IPI are the result of, rather than prerequisites to, independent living by individuals with developmental disabilities.

The trend in living arrangements is away from institutionalization toward community-based options. From the state consumer surveys conducted in preparation for the 1990 Report we learned that:

- Independence and integration were reported to be important to 75 percent of those surveyed; however, only 26 percent and 38 percent, respectively, saw themselves as independent and integrated.
- People who lived in nursing home and other institutions were less independent, productive, and integrated than people who lived in community residences.
- People with developmental disabilities had less participation in community living activities and were more apt to feel lonely than people without disabilities.
- Less than one-third of those who need community living support were receiving it.
- 12%–18% of adults with developmental disabilities in America own or lease their own homes.

In FY 1992, ADD awarded three continuation awards for projects of national significance that are resulting in individuals with developmental disabilities having control of their own residences through ownership or lease. These projects are:

South Shore Association for Retarded Citizens: A Home of One's Own (Mary Burt: 617/335–3023)

Melwood Horticultural Training Center: "Home of Your Own" Project—An Innovative Approach to Increasing Housing and Support Service Options For and Control Over These Options by

Person with Disabilities (Earl Copus, Jr.: 301/599–8000)

University of New Hampshire: New Hampshire's Home of Your Own (Jan Nisbet: 603/862–4320)

Project activities and achievements include the:

- Promotion of successful community integration through home ownership/leasing;
- Identification of solutions to barriers (fiscal, policy, and programmatic) to individualized housing and individual control; and
- Establishment of collaborative arrangements/agreements with local housing agencies, builders and developers.

These projects are demonstrating the efficacy of community integration through home ownership and control by individuals with developmental disabilities in integrated, independent settings.

- *Minimum Requirements for Project Design:* There is an overwhelming need to assist States, private providers and consumers and self advocates in making broad and systemic change. The work of cutting-edge practitioners can be replicated and such knowledge disseminated that will advance independent home living for larger numbers of individuals nationwide.

The knowledge and skills required to produce viable, integrated, independent, housing options for individuals with developmental disabilities is not yet widely or readily available. Therefore, the applicant must demonstrate that such expertise will be available to this project on a regular and continuing basis. Furthermore, the applicant must offer a plan to impact a variety of audiences which include, at a minimum: self advocates, housing development corporations, local, State and national housing agencies and authorities, residential providers, real estate financing and development entities, private foundations and the developmental disabilities network. ADD is particularly interested in fostering state-level coalitions between Developmental Disabilities Councils, Protection and Advocacy Systems, University Affiliated Programs, and advocacy and consumer groups to achieve systems change in this area.

The following are types of activities that the project may seek to engage:

- Collecting and disseminating knowledge gained from existing demonstration projects.
- Conducting workshops, seminars, conferences and forums on substantive topical areas.
- Development of practical products such as manuals, how-to reports, useful instruments/tools/methodologies.
- On-site consultation to assist in systems change activities.

In addition, proposals should provide for the widespread distribution of their products (reports, summary documents, audio-visual materials, and the like) in accessible formats.

Before making the final award, ADD will conduct a site visit to assure the capacity of the applicant to fulfill the proposed plans and the capabilities to carry out the terms of a cooperative agreement. ADD is interested particularly in applications from organizations or coalitions that have a strong community and consumer base. Such applicants would demonstrate significant involvement by people with disabilities in the governance, management, and operation of the organization. Furthermore, ADD is particularly interested in applications that can present a plan to acquire the needed resources to continue project activities when ADD funding ceases.

Proposals should also include provisions for the travel of two key personnel during the last year of the project to Washington, DC for a one day meeting with ADD staff.

The application should also respond to the following:

- Describe the physical setting, the administrative and organizational structure within which the program will function, and internal and external organizational relationships relevant to this project. Charts outlining these relationships, and any formal agreements defining them, should be included in the appendices.
- Describe staff, space, equipment, research facilities, and other supports available to carry out the program.
- Describe briefly how the additional resources sought to accomplish the purposes of this effort will be integrated into and augmented by other resources available or accessible by the applicant.
- Develop and implement an evaluation process to ensure that systematic, objective information is available about the utilization and effectiveness of the products of this project. Specific outcomes must be built into the project for evaluation. The evaluation should be performed by an independent evaluator; and

As noted earlier, the award will be made as a cooperative agreement. While the organization receiving the award will not be conducting this project on behalf of ADD, ADD and the awardee will work cooperatively in the development and implementation of the project's agenda as described below.

Under the cooperative agreement mechanism, ADD will be actively involved in the development of information regarding state-of-the-art housing and community inclusion approaches. The awardee will have the primary responsibility for developing and implementing the activities of the project. ADD will jointly participate with the awardee in such activities as clarifying the specific issue areas to be addressed through periodic briefings and ongoing consultation, sharing with the awardee its knowledge of the issues being addressed by past and current projects, and providing feedback to the awardee about the usefulness to the field of its written products and information sharing activities. The details of this relationship will be set forth in the cooperative agreement to be developed and signed prior to issuance of the award.

- *Project Duration:* This announcement is soliciting applications for project periods up to five years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for five years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the five year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government.
- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $500,000 for the first 12-month budget period or a maximum of $2,500,000 for a 5-year project period.
- *Matching Requirement:* The minimum non-Federal matching requirement in proportion to the maximum Federal share of $2,500,000 is $833,333 for a 5-year project period. This constitutes 25 percent of the total project budget.
- *Anticipated Number of Projects to be Funded:* It is anticipated that at least one project will be funded.
- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance.

Fiscal Year 1993 Priority Area 2: Personal Assistance Services (PAS) Through Leadership and Self Advocacy

(This priority area combines Proposed Fiscal Year 1993 Priority Area 2: Personal Assistance Services and Proposed Fiscal Year 1993 Priority Area 3: Leadership/Advocacy)

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies.

• *Purpose:* Under this priority area, ADD will award demonstration grant funds on Personal Assistance Services (PAS) Through Leadership and Self Advocacy. This priority area intends to strengthen the ability of individuals with disabilities, especially those with developmental disabilities, and their immediate families, to serve as leaders and advocates on the critical issue of PAS and thereby promote the independence, productivity and integration into the community of persons with developmental disabilities. Projects will develop leadership skills among self advocates (throughout this announcement, this term includes family members of children with disabilities and family members of adults with disabilities if such adults are unable to advocate for themselves) to educate policymakers and promote PAS at the State and local levels. ADD is interested in fostering State-level coalitions among self advocacy and consumer groups, Developmental Disabilities Councils, Protection and Advocacy Systems, and University Affiliated Programs to achieve, influence and impact all facts of PAS service delivery and to achieve systems coordination/change.

• *Background Information:* Personal assistance services have been defined as "* * * one or more persons assisting another person with tasks which that individual would typically do if they did not have a disability. This includes assistance with such tasks as dressing, bathing, getting in and out of bed or one's wheelchair, toileting (including bowel, bladder and catheter assistance), eating (including feeding), cooking, cleaning house, and on-the-job support. It also includes assistance from another person with cognitive tasks like handling money and planning one's day or fostering communication through interpreting and reading services." (The Consortium for Citizens with Disabilities, Recommended Federal Policy Directions on Personal Assistance Services for Americans with Disabilities, May, 1992, Washington, D.C.)

Personal assistance services are identified as critical factors in the attainment of independence, productivity, and integration of individuals with developmental disabilities by researchers, self advocates, and consumers. Individuals with a variety of disabilities can function at optimal levels and participate fully in society if personal assistance services are available. Current research has identified service delivery models. One conclusion about the status quo is that "[t]here is no uniform system for providing personal assistance services (PAS) in the U.S. Instead, there are a variety of federal and state funding streams. Some funding sources were developed specifically to provide PAS, others were developed to provide different social and medical services * * *" [(The Research and Training Center on Public Policy and Independent Living, World Institute on Disability (WID), Personal Assistance Services: A Guide to Policy and Action, September, 1991, Oakland, CA., Ch. 2, p. 1].

Individuals engaging in self advocacy can be effective in enhancing State and local PAS service delivery systems. Self advocates may be uniquely qualified to "translate what personal assistance services will really mean" (WID, Ch 3, p. 1) to policy makers, State and local communities, organizations, and others to increase the effectiveness of PAS State and local service delivery systems.

• *Minimum Requirements for Project Design:* There is an overwhelming need to assist consumers and self advocates in making broad and systemic change in the area of personal assistance services. ADD is particularly interested in applications from cross-disability coalitions or organizations that have a strong consumer and/or self-advocacy base. Such applicants should demonstrate significant involvement by people with disabilities in the governance, management, and operation of the organization. Examples of projects include activities which would:

• Support and train consumers and self-advocates to identify, modify, coordinate and impact on the various personal assistance services and options available within the State and to identify the means by which the services are acquired, and identify and propose systemic changes (redirection of funding, coordination of efforts).

• Develop a self-advocacy program which will provide the necessary skills and support to further the attainability and consumer and/or self-advocacy responsiveness of personal assistance services.

• Establish a personal assistance services action committee which identifies and develops plans to address barriers to individual receipt of personal assistance services.

• Identify and document replicable programs and projects which promote the leadership qualities essential to serving as a leader/advocate in personal assistance services.

• Identify State and local linkages that would be essential to establishing collaborative agreements/arrangements that would strengthen consumers' and/or self-advocates' capacities to serve as leaders/advocates in personal assistance services.

Proposals should also include provisions for the travel of two key personnel during the first and last year of the project to Washington, DC for a one day meeting with ADD staff.

In addition, proposals should provide for the widespread distribution of their products (reports, summary documents, audio-visual materials, and the like) in accessible formats.

• *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government.

• *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a 3-year project period.

• *Matching Requirement:* The minimum non-Federal matching requirement in proportion to the maximum Federal share of $300,000 is $100,000 for a 3-year project period. This constitutes 25 percent of the total project budget.

• *Anticipated Number of Projects to be Funded:* It is anticipated that at least four PAS projects will be funded.

• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1993 Priority Area 3: Ongoing Data Collection and Information Dissemination

(This priority area appeared in the June 1992 announcement as proposed Fiscal Year 1993 Priority Area 5: Ongoing Data Collection and Information Dissemination)

• *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies.

• *Purpose:* Under this priority area, ADD will award grand funds through a cooperative agreement which will collect data on public expenditures,

employment and economic status, and other factors as they impact on the independence, productivity and integration into community of persons with developmental disabilities. ADD is particularly interested in the maximum use of already existing data bases and in fostering the broadest dissemination to and use of the data by consumers, families and advocacy audiences. Examples of successful projects that ADD has funded include:

—University of Minnesota: National Recurring Data Set Project on Residential Services—Ongoing National and State-by-State Data Collection and Policy/Impact Analysis on Residential Services for Persons with Developmental Disabilities (Charles Lakin: 612/624–2097)

—University of Illinois at Chicago: Fourth National Study of Public Mental Retardation/Developmental Disabilities Spending (David Braddock: 312/413–1647)

—Boston Children's Hospital: Ongoing National Collection on Data and Employment Services for Citizens with Developmental Disabilities (Bill Kiernan: 617/735–6506)

Examples of projects include activities which would:

- Identify, collect and disseminate new data bases;
- Modify, expand and/or reformulate existing data bases;
- Connect, integrate or analyze available data bases.
- Project and model the cost-benefit impact of alternative future decisions based on the analysis of discrete programmatic options in the areas of residential services and employment.
- *Minimum Requirements for Project Design:* Given its interest in promoting the increased independence, productivity, and community integration of people with developmental disabilities in a cost-beneficial manner, ADD is particularly interested in supporting projects that provide quantitative and qualitative analysis in the following areas.
- Trends in the movement of people with developmental disabilities from institutional to community settings.
- The efficacy of various approaches to the full inclusion of people with developmental disabilities in local community activities where the majority of participants do not have a disability.
- The employment status of people with developmental disabilities on a state and national basis.

Any sampling techniques used as part of this analysis should be broadly representative of persons with developmental disabilities of employment age on a national basis, including people with severe disabilities. Quantitative data should provide statistical information on current placement patterns and their cost as well as projections regarding future placement options and associated costs. It is also recognized that certain areas may be more appropriate for qualitative analysis, although a summary of any quantitative data (if available) should be included in the proposal.

All projects funded under this priority area must provide evidence of the soundness of their proposed research methods and analytic techniques. In addition, proposals should clearly delineate (via a comprehensive literature review) data sets that are already in existence, how these data sets will be incorporated into the research design, and what new knowledge will be gained through the proposed project.

All projects shall provide for the widespread distribution of their products (reports, summary documents, audio-visual materials, and the like) in accessible formats to a national audience consisting of, at a minimum, people with developmental disabilities and their families, advocacy groups, State Developmental Disabilities Councils, Protection and Advocacy Systems, University Affiliated Programs, State Mental Retardation/Developmental Disabilities Directors, State Governor's Offices, Federal agencies represented on the Interagency Committee on Developmental Disabilities, as well as the Secretaries of Health and Human Services and Education at the federal level.

Proposals should also include provisions for the travel of two key personnel during the first and last year of the project to Washington, DC for a one day meeting with ADD staff.

The application should also respond to the following:

- Describe the physical setting, the administrative and organizational structure within which the program will function, and internal and external organizational relationships relevant to this project. Charts outlining these relationships, and any formal agreements defining them, should be included in the appendices.
- Describe staff, space, equipment, research facilities, and other supports available to carry out the program.
- Describe briefly how the additional resources sought to accomplish the purposes of this effort will be integrated into and augmented by other resources available or accessible by the applicant.
- Develop and implement an evaluation process to ensure that systematic, objective information is available about the utilization and effectiveness of the products of this project. Specific outcomes must be built into the project for evaluation. The evaluation should be performed by an independent evaluator.

As noted earlier, the award will be made as a cooperative agreement. While an organization receiving an award will not be conducting its project on behalf of ADD, ADD and the awardee will work cooperatively in the development and implementation of the project's agenda as described below.

Under the cooperative agreement mechanism, ADD and the awardees will share the responsibility for planning the objectives of the projects. Awardees will have the primary responsibility for developing and implementing the activities of the project. ADD will jointly participate with awardees in such activities as clarifying the specific issue areas to be addressed through periodic briefings and ongoing consultation, sharing with awardees its knowledge of the issues being addressed by past and current projects, and providing feedback to awardees about the usefulness to the field of written products and information sharing activities. The details of the relationship between ADD and awardees will be set forth in the cooperative agreement to be developed and signed prior to issuance of the award.

- *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government.
- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $200,000 for the first 12-month budget period or a maximum of $600,000 for a 3-year project period.
- *Matching Requirement:* The minimum non-Federal matching requirement in proportion to the maximum Federal share of $600,000 is $200,000 for a 3-year project period. This constitutes 25 percent of the total project budget.

• *Anticipated Number of Projects to be Funded:* It is anticipated that at least three data collection projects will be funded.

• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1993 Priority Area 4: Technical Assistance Projects

(This priority area appeared in the June 1992 announcement as proposed Fiscal Year 1993 Priority Area 6: Technical Assistance)

For this priority area, ADD will be awarding funds separately using the procurement process to provide technical assistance to improve the functions of the Developmental Disabilities Planning Councils, Protection and Advocacy Systems, University Affiliated Programs, and to provide additional technical assistance to the developmental disabilities field in the area of housing, leadership, cultural diversity, and policy development.

Part V. Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this announcement. Application forms are provided along with a checklist for assembling an application package. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information contained within the specific priority area under which the application is to be submitted. The priority area descriptions are in part IV.

A. Required Notification of the State Single Point of Contact

All applications under the ADD priority areas are required to follow the Executive Order (E.O.) 12372 process, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Program and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Pennsylvania, Oklahoma, Oregon, Virginia, Washington, American Samoa and Palau, have elected to participate in the Executive Order process and have established a State Single Point of Contact (SPOC). Applicants from these 14 jurisdictions need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions.

Applicants must submit all required materials to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials and indicate the date of this submittal (or date SPOC was contacted, if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application date to comment on proposed new or competing continuation awards. However, because applications are due 45 days from the date of publication, and grants are to be awarded in September, there is not sufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 45 days (from date of publication in the **Federal Register**). These comments are reviewed as part of the award process. Failure to notify the SPOC can result in delays in awarding grants.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendation which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ADD, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, Washington, DC 20201.

Contact information for each State's SPOC is found at the end of this Part.

B. Notification of State Developmental Disabilities Planning Councils

A copy of the application must also be submitted for review and comment to the State Developmental Disabilities Planning Council in each state in which the applicant's project will be conducted. A list of the State Developmental Disabilities Planning Councils is included at the end of this announcement.

C. Deadline for Submittal of Applications

An application will be considered as meeting the *deadline* if it is either:

1. Received on or before the deadline date at the place specific in the program announcement, or
2. Sent on or before the deadline date and received by the granting agency in time for the independent review under DHHS GAM Chapter 1–62. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications: Applications which do not meet the criteria stated above are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: The granting agency may extend the deadline for all applicants due to acts of God, such as floods, hurricanes or earthquakes; or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

D. Instructions for Preparing the Application and Completing Application Forms

The SF 424, SF 424A, SF 424A, Page 2 and Certifications have been reprinted for your convenience in preparing the application. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the **Federal Register** announcement, as they are printed on both sides of the page.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. "Type of Submission"—Preprinted on the form.

Item 2. "Date Submitted" and "Applicant Identifier"—Date

application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. "Date Received By State"—State use only (if applicable).

Item 4. "Date Received by Federal Agency"—Leave blank.

Item 5. "Applicant Information"

"Legal Name"—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

"Organizational Unit"—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

"Address"—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

"Name and telephone number of the person to be contacted on matters involving this application (give area code)"—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. "Employer Identification Number (EIN)"—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. "Type of Applicant"—Self-explanatory.

Item 8. "Type of Application"—Preprinted on the form.

Item 9. "Name of Federal Agency"—Preprinted on the form.

Item 10. "Catalog of Federal Domestic Assistance Number and Title"—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title. For all of ADD's priority areas, the following should be entered, "93.631—Developmental Disabilities: Projects of National Significance."

Item 11. "Descriptive Title of Applicant's Project"—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. "Areas Affected by Project"—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. "Proposed Project"—Enter the desired start date for the project and projected completion date.

Item 14. "Congressional District of Applicant/Project"—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If statewide, a multi-State effort, or nationwide, enter "00."

Item 15. Estimated Funding Levels In completing 15a through 15f, the dollar amounts entered should reflect, for a 17 month or less project period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Item 15b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or "matching funds." The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part III, Sections E and F, and the specific priority area description.

Item 15f. Enter the estimated amount of program income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this program income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. "Is Application Subject to Review By State Executive Order 12372 Process? Yes."—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application.

Item 16b. "Is Application Subject to Review by State Executive Order 12372 Process? No."—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. "Is the Applicant Delinquent on any Federal Debt?"—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. "To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded."—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. "Typed Name of Authorized Representative, Title, Telephone Number"—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. "Signature of Authorized Representative"—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. "Date Signed"—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering (1) the total project period of 17 months or less or (2) the first year budget period, if the proposed period exceeds 17 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers (1) the total project period of 17 months or less or

(2) the first year budget period if the proposed project period exceeds 17 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, "Other."

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included in Line 6h, "Other."

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. For State and local governments, including Federally recognized Indian Tribes, "equipment" is non-expendable tangible personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. For all other applicants, the threshold for equipment is $500 or more per unit and the required useful life is more than two years. The higher threshold for State and local governments became effective October 1, 1988, through the implementation of 45 CFR Part 92, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, "Other."

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: Insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as "miscellaneous" and "honoraria" are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter "none." Generally, this line should be used when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b*) from (a*). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled "Totals." In-kind contributions are defined in title 45 of the Code of Federal Regulations, Part 74.51, as "property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant."

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 17 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required *Federal* funds for the second budget period (months 13 through 24) under column "(b) First." If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under "(c) Second." Columns (d) and (e) are not applicable in most instances, since ACF funding is almost always limited to a three-year maximum project period. They should remain blank.

Section F—Other Budget Information.

Direct Charges—Line 21. Not applicable.

Indirect Charges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the proposal. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project "abstract." It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part IV. The narrative should also provide information concerning how the application meets the evaluation criteria, using the following headings:

(a) *Objectives and Need for Assistance;*

(b) *Results and Benefits Expected;*

(c) *Approach;* and

(d) *Staff Background and Organization's Experience.*

The specific information to be included under each of these headings is described in Section C of Part III, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½" x 11" plain white paper, with 1" margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with "Objectives and Need for Assistance" as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½x11" sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Part V—Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must provide certifications regarding: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These two certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities certifications, and need not be mailed back with the application.

For research projects in which human subjects may be at risk, a Protection of Human Subjects Assurance may be required. If there is a question regarding the applicability of this assurance, contact the Office for Research Risks of the National Institutes of Health at (301) 496–7041.

E. Checklist for A Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

—Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);
—Application length does not exceed 60 pages, unless otherwise specified in the priority area description.

A complete application consists of the following items in this order:
—Application for Federal Assistance (SF 424, REV 4–88);
—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable.
—Budget Information—Non-Construction Programs (SF 424A, REV 4–88);
—Budget justification for Section B—Budget Categories;
—Table of Contents;
—Letter from the Internal Revenue Service to prove non-profit status, if necessary;
—Copy of the applicant's approved indirect cost rate agreement, if appropriate;
—Project summary description and listing of key words;
—Program Narrative Statement (See Part III, Section C);
—Organizational capability statement, including an organization chart;
—Any appendices/attachments;
—Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88);
—Certification Regarding Lobbying; and
—Certification of Protection of Human Subjects, if necessary.

F. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Do not include a self-addressed, stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application and of the four digit identification number assigned to their application. This number and the priority area must be referred to in *ALL* subsequent communication with ADD concerning the application. If acknowledgment of receipt of your application is not received within eight weeks after the deadline date, please notify ADD by telephone at (202) 690–5984.

(Federal Catalog of Domestic Assistance Number 93.631 Developmental Disabilities—Projects of National Significance)

Dated: June 21, 1993.

Will Wolstein,

Acting Commissioner Administration on Developmental Disabilities.

BILLING CODE 4184–01–M

Attachment A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☑ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State — H. Independent School Dist.
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

Authorized for Local Reproduction

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided.

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184-01-M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b). For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g). *For new applications,* leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

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Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–23–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

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Attachment B

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department of agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction or records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attached an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions." without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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Attachment C

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification" set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

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Attachment D

State Single Points of Contact

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315.

Arkansas

Mr. Joseph Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203,Telephone: (501) 371–1074.

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone: (916) 323–7480.

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone: (303) 866–2156.

Connecticut

Under Secretary, Attn: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Telephone (203) 566–3410.

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone: (302) 736–3326.

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, NW., Washington, D.C. 20004, Telephone: (202) 727–9111.

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, the Capitol, Tallahassee, Florida 32399–0001, Telephone: (904) 488–8114.

Georgia

Charles, H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone: (404) 656–3855.

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol—Room 406, Honolulu, Hawaii 96813, Telephone: (808) 548–5893, FAX (808) 548–8172.

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois Springfield, Illinois 62706, Telephone: (217) 782–8639.

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5610.

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50390, Telephone: (515) 281–3725.

Kentucky

Debbie Anglin, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564–2382.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261.

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490.

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001.

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373–7111.

Please direct correspondence to:

Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Buildings Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373–6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960–4280.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834.

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444–5522.

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, ATTN: John B. Walker, Clearinghouse Coordinator.

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155.

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613.

Please direct correspondence and questions to:

Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025.

New Mexico

Aurelia M. Sandoval, State Budget Division, DFA, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605.

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733–0499.

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224–2094.

Ohio

Larry Weaver, State Single Point of Contact, State/Federal funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698.

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656.

Please direct correspondence and questions to:

Review Coordinator, Office of Strategic Planning

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0493.

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212.

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676.

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778.

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535.

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326.

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010.

Wisconsin

William C. Carey, Federal/State Relations, IGA Relations, 101 South Webster Street, P.O. Box 7864, Milwaukee, Wisconsin 53707, Telephone (608) 266–1741.

Please direct correspondence and questions to:

William C. Carey, Section Chief, Federal/State Relations Office, Wisconsin Department of Administration, (608) 266–0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777–7574.

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285.

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950.

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444.

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774–0750.

Attachment E

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her own knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date.

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DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

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federal register

Monday
June 28, 1993

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 701 et al.

Surface Coal Mining and Reclamation Operations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 773, 774, 778, and 843

RIN 1029-AB62

Definition and Procedures for Transfer, Assignment and Sale of Permit Rights; Definitions of Ownership and Control; Permit Information Requirements and the Applicant/Violator System; Civil Penalties for Owners and Controllers of Violators

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) proposes to establish new regulations and amend existing provisions to clarify the role of the Applicant/Violator System (AVS) in the permit application process; reorganize and amend the definitions of ownership and control; amend the definition of and procedures for transfer, assignment or sale of permit rights; establish procedures for permit revisions regarding changes in operators or other changes in ownership or control; revise requirements for information to be submitted as part of the permit application process; eliminate certain civil penalties for owners and controllers of violators; and establish penalties for knowing submission of false or incomplete ownership or control information during any of the above or several other information collection processes. Experience in the permitting process and operation of the AVS has shown the need for the proposed changes which are intended to improve implementation of the permitting process, clarify existing responsibilities, and improve operation of the AVS.

DATES: *Written comments:* OSM will accept written comments on the proposed rule until 5 p.m. Eastern time on August 27, 1993.

Public hearings: Upon request, OSM will hold public hearings on the proposed rule in Washington, DC, on a date and at a time that would be subsequently announced. Upon request, OSM will also hold public hearings in the States of California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington at times and dates to be announced prior to any requested hearings. OSM will accept requests for public hearings until 5 p.m. Eastern time on July 19, 1993. Individuals wishing to attend, but not testify, at any hearing should contact the person identified under **"FOR FURTHER INFORMATION CONTACT"** beforehand to verify that the hearing will be held.

ADDRESSES: *Written comments:* Hand deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660, 800 North Capitol Street, NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660 N.C., 1951 Constitution Avenue NW., Washington, DC 20240

Public hearings: The addresses for hearings scheduled in the States of California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, Washington, and the District of Columbia will be announced prior to the hearings.

Request for public hearings: Submit request orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Dr. Annetta Cheek, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, DC 20240. Telephone: 202-208-6652.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practical, commenters should submit three copies of their comments. Comments received after the close of the comment period (see **"DATES"**) or delivered to addresses other than those listed above (see **"ADDRESSES"**), may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSM will hold public hearings on the proposed rule on request only. The times, dates, and addresses for all hearings will be announced in the **Federal Register** at least 7 days prior to any hearings which are to be held.

Any person interested in participating at a hearing at a particular location should inform Dr. Cheek (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desired hearing location by 5 p.m. Eastern time July 19, 1993. If no one has contacted Dr. Cheek to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results will be included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing provide the transcriber a written copy of their testimony. To assist OSM in preparing appropriate questions, OSM also requests that persons who plan to testify submit to OSM at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

The regulations proposed here are intended to implement several different sections of SMCRA. Together, these statutory requirements ensure that permits are not issued to persons who are ineligible to receive a permit to conduct surface coal mining operations, due to ownership and control links to outstanding violations, including overdue civil penalties and abandoned mine land (AML) fees.

A. Section 506—Permits and Section 510—Permit Approval or Denial

Section 506(b) of SMCRA provides that successors in interest to permittees may continue mining until a new permit is issued if the successor can obtain the required bond and applies for the new permit within 30 days of succeeding to such interest. OSM has previously defined successor in interest at 30 CFR 701.5 (44 FR 15316 *et seq.*) to mean "any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights."

Section 510(c) of SMCRA and existing 30 CFR part 773 establish certain requirements for permits and permit processing. These requirements include the determination of ownership or control links between permit applicants and individuals or entities who are responsible for unabated violations of Federal or State laws and rules. See 30 CFR 773.5; 30 CFR 773.15(b). The purpose of such inquiry is to determine whether a permit applicant is linked to surface coal mining operations which have unabated violations. See 30 CFR 773.15(b). In the event that a permit applicant is so linked, the regulatory authority may not issue a permit to the applicant unless the applicant submits proof that the violation has been or is in

the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation, or is the subject of a good faith, direct administrative or judicial appeal to contest the validity of the violation.

The Secretary of the Interior established a computerized Applicant/Violator System ("AVS") to match permit applicants and their owners and controllers with current violators of SMCRA, to improve implementation of this statutory requirement. The rules proposed there would contribute to OSM's intention to continue operating and enhancing this system. This rule clarifies responsibilities for obtaining, entering, and maintaining data in the system.

B. Section 511—Revision of Permits

Section 511(b) of SMCRA provides that "no transfer, assignment or sale of the rights granted under any permit issued pursuant to this Act shall be made without the written approval of the regulatory authority." OSM has previously defined transfer, assignment or sale of permit rights at 30 CFR 701.5 to mean a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the regulatory authority (44 FR 15316 *et seq.*). OSM has further specified at 30 CFR 774.17(a) that no such transfer of rights can occur without the prior written approval of the regulatory authority. These provisions help ensure that individuals who are not eligible to receive a permit to conduct surface coal mining operations do not receive such a permit through a transfer from some other, eligible party.

III. Discussion of Proposed Rules

The proposed rules would amend various existing provisions relating directly or indirectly to the use of the AVS. Taken together, these changes would clarify the role of the AVS in the permit application process and eliminate duplicative submission of data by permit applicants. The changes would clarify the definitions of ownership or control of entities and of surface coal mining operations, and would relate changes in such ownership or control to revised procedures for transfer, assignment or sale of permit rights and for permit revisions in a more meaningful and practical way. Overall, the proposed changes are expected to make the AVS a more useful tool for OSM, regulatory authorities, the coal mining industry and the public.

This preamble will discuss proposed regulations in numerical order by section, starting with the definition of transfer, assignment or sale of permit rights in § 701.5 and continuing through §§ 773.5, 773.17, 773.27, 774.17, 774.18, 778.13, 778.14, and 843.23.

A. Section 701.5—Definitions

This proposal would amend the current definition of "transfer, assignment or sale of permit rights." The existing rule in its current form was published on September 23, 1983 (48 FR 44391), and has not been amended since. The change proposed here would restrict the definition to changes in permittees. The term would no longer apply to other changes in ownership or control, such as changes in directors or officers of an entity, or changes of operators on a surface coal mining operation.

At the time the current definition was finalized, OSM had not promulgated its ownership and control definitions. When those latter definitions were promulgated in 1988, as discussed below, OSM greatly changed the interaction of the definition of transfer, assignment or sale with the definitions of ownership and control. Subsequently, experience has shown that the interaction of the two provisions results in an impractical process, whereby persons engaged in the surface coal mining industry are required to go through the transfer, assignment or sale process for any change in ownership or control, as defined in § 773.5. This includes not just changes in permittees, but also changes in officers or directors, shareholders, and all other owners or controllers. Furthermore, the current regulations require regulatory authority approval of such changes before they occur. Not only does this impose an undue burden on both the regulatory authorities and on the regulated community, it conflicts with normal and accepted business practices.

Restriction of the term transfer, assignment or sale of permit rights to changes of the permittee means that prior regulatory authority approval for ownership or control changes under this provision of the Act will be required only for changes for permittees. Other ownership or control changes, except for changes in operators, as discussed below, can occur prior to such approval. OSM intends these various new provisions to provide adequate opportunity for such changes to be reviewed without imposing unrealistic burdens on the regulated community, or contravening normal business practices.

B. Section 773.5—Definitions

This proposal would amend the current definitions of "owned or controlled" and "owns or controls." The final rule in its current form was published October 3, 1988 (53 FR 38868 *et seq.*). OSM recognizes that the definition of ownership or control is currently being litigated in the case of *National Wildlife Federation* v. *Lujan*, Nos. 88–3464, *et seq.* (D.D.C., consolidated), and this proposal departs in some respects from the position taken by the agency in that litigation.

The primary change proposed here would be a reorganization of the definitions. In effect, the ownership and control of entities would be defined separately from the ownership and control of surface coal mining operations. Currently, ownership and control of both entities and surface coal mining operations are covered by the same set of definitions. Specifically, the proposal provides definitions of deemed and presumed owners of entities in proposed paragraphs 773.5(a) (1) and (2), respectively. It provides definitions of deemed and presumed owners of surface coal mining operations in paragraphs 773.5(b) (1) and (2), respectively. These organizational changes would enhance the clarity of the definitions.

Three other changes would be made to the definitions as well. First, the proposal specifies that operators are deemed to own or control the surface coal mining operations they actually conduct. The preamble to the final ownership and control rule of October 3, 1988, discussed the topic at length:

> The definition [promulgated herein] establishes a rebuttable presumption of control for operators. This has been a difficult and controversial issue for OSMRE, and one about which members of Congress inquired as to the basis the agency had for proposing an irrebuttable presumption of control for operators and the basis for changing that position.
>
> Prior to promulgating this rule, OSMRE considered several alternatives. In the April 5, 1985, proposal (50 FR 13724), operators were not specifically mentioned in the definition, but would have been regulated under the phrase "any other relationship." The second alternative was published on April 16, 1986 (51 FR 12879). It did not contain specific rule language but stated that being an operator would constitute control. This option was added in response to comments which argued that the person really controlling the mining operation is the operator (administrative record document no. 6). Under another alternative, published on May 4, 1987 (52 FR 16275); reiterated on October 5, 1987 (52 FR 37164), and included in this final rule, being an operator creates a presumption of control.
>
> Part of OSMRE's difficulty in determining the degree to which an operator controls a surface coal mining operation results from ambiguities in the Act. Even though the terms "permittee" and "operator" are defined in the Act, the Act sometimes uses the terms

interchangeably from one section or subsection to another. For example, "permittee" in section 518(a) and "operator" in section 518(c) appear to be used interchangeably.

OSMRE is concerned about the inequities that could result from a conclusive presumption for operators that may not always be true. Although permittees are responsible for everything that happens on the site, non-permittee operators are responsible only for their own conduct. Thus an operator may be able to show that a violation was caused by the permittee or someone else other than itself.

Further, courts have construed operators to include entities which do not physically engage in coal removal. See *United States* v. *Rapoca Energy Co.*, 613 F. Supp. 1161 (1985) (*Rapoca*). Thus although OSMRE agrees that entities physically engaged in surface coal mining operations will almost universally control such operations, the term operator includes more than such entities.

The proper focus of a compliance review inquiry should be whether a person controls the operation, not whether the person is the "operator." Therefore OSMRE is reluctant to establish an irrebuttable presumption based upon the definition in section 701(13). (53 FR 38873)

Subsequent to the publication of that preamble, OSM has found in its implementation of the AVS that operators are invariably the controllers of the operations they conduct. No entity has even attempted to rebut the presumption that it controlled operations it conducted. Part of the difficulty with this issue, OSM believes, has been the confusion between control of operations and control of entities. Certainly, this confusion has created a problem for the consistent application of principles of ownership and control to the process by which permit applicants are evaluated and, when they are linked to a violation, blocked from receiving new permits to mine. This is particularly true where the operator is not the permittee, but rather is a separate entity hired by the permittee to mine the coal on the permit. This situation has been a source of confusion in the implementation of 30 CFR 773.15 and 30 CFR 773.5. For example, where the operator is not the permittee, but is a separate entity hired by the permittee to mine the coal, the permittee should be considered to be a controller of the operator only *vis-a-vis* the specific permit on which the operator is conducting mining operations for the permittee, but not at other permits being mined by the operator for other permittees.

This proposal would clarify that not only is the permittee considered a deemed controller of a surface coal mining operation, but so is a non-permittee entity who is removing the coal on behalf of the permittee. However, OSM recognizes the validity of the arguments it made in the preamble to the 1988 final ownership and control rule, quoted above. Thus, OSM is not actually proposing a change in policy from that articulated in the preamble. Here, OSM is specifying that "non-permittee operators are responsible only for their own conduct." While an operator is responsible for its own operations, if there is more than one such operator on a permit, and assuming the portions of the permit are readily separable, each operator would be a deemed controller only for those portions of the total operation when and where it is conducting surface coal mining operations. In effect, the operator could refute the fact that it controlled a specific portion of the operation, but it could not rebut its control over its own parts of the operation. OSM believes that this change accurately reflects the degree of control an operator exercises over its own operations, while still allowing an operator to present facts that may demonstrate it is not in control of other activities on the same permit. Thus, proposed paragraph 773.5(b)(1)(ii) would stipulate that operators are deemed controllers "with respect to any operations or activities conducted by such operator on the site."

For additional clarity, OSM proposes to amend the language currently found in paragraph 773.5(a)(3) to specify at proposed paragraph 773.5(b)(1)(i) that permittees are deemed controllers with respect to any operations or activities conducted on a site. This latter proposal also does not represent any change from current policy.

For purposes of the proposed rule, the term "operator" in § 773.5(b)(1)(ii) means any person or entity that meets the definition of "operator" in 30 U.S.C. 1291(13), other than a permittee covered by § 773.5(b)(1)(i) or a mineral owner covered by § 773.5(b)(2). OSM has consistently interpreted the term "operator" to include both permittees—see H.R. Rep. No. 294, 101st Cong., 1st Sess. 25–26 (1989)—and mineral owners who conduct surface coal mining operations through the use of contractor miners—see *United States* v. *Rapoca Energy Co.*, 613 F. Supp. 1161 (W.D. Va. 1985). Most commonly, however, the term "operator" is used to refer to an entity that mines coal under a contract, sublease, or assignment from a permittee. It is this latter usage that OSM intends in proposed § 773.5(b)(1)(ii), since permittee-operators and mineral owner-operators are covered separately in proposed § 773.5(b)(1)(i) and (b)(2), respectively.

OSM has discussed these issues extensively with the States. As a result, OSM believes that these definitions provide a reasonable basis for providing consistency to regulatory authorities in their attempts to record relationships among different entities at one surface coal mining operation accurately and clearly.

A second change that would be made by this proposal would be in current 30 CFR 773.5(b)(6). That section currently provides that control is presumed to exist where someone owning or controlling coal to be mined by another person under the terms of a lease, sublease or other contract has the right to receive such coal after mining or has the authority to determine the manner in which that person or another person conducts a surface coal mining operation. Thus, this presumption can be met when someone owns the coal to be mined by another under a lease or contract, and has a right to receive the coal or otherwise can determine the manner of mining. By manner of mining, OSM is not referring to the general type of mining—surface or underground, for example—but rather to the implementation of whichever general mode of mining is used at a particular site. OSM is proposing to delete the last provision—determining the manner of mining. The proposed regulation would retain the first two provisions—ownership of the coal and the right to receive the coal.

OSM believes that the last part of the current provision is redundant with the provisions in current 30 CFR 773.5(a)(3). The provisions of current 30 CFR 773.5(a)(3) state that deemed ownership or control includes "any other relationship which gives one person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations." Under today's proposal, current 30 CFR 773.5(a)(3) would become paragraph 773.5(a)(1)(ii), and would be repeated, in large part, in proposed paragraph 773.5(b)(1)(iii). Under the proposal to separate the definitions of ownership or control for entities and for surface coal mining operations, OSM is adding definitional language at proposed paragraph 773.5(b)(1)(iii) that is essentially the same as that at current paragraph 773.5(a)(3). OSM considers entities which have authority directly or indirectly to determine the manner in which the surface coal mining operation is conducted to be deemed controllers of such surface coal mining operations. Once the test currently contained in (a)(3) has been met, control is no longer

presumed, but deemed. Thus, it is unnecessary to have that test in the section dealing with presumed control.

OSM recognizes, however, that there may be some reason to retain this definition of control by mineral owners who have authority to determine the manner of mining in both the (a) and (b) sections of § 773.5. It has been suggested that regulatory authorities may be discouraged from asserting a control link under the deemed provisions in the (a) portion of the definition, but would assert such control under the presumed provisions in (b), because the entity concerned could attempt to rebut control under (b), but not under (a). OSM is particularly interested in receiving comments on this matter.

The third and final substantive change proposed today would alter OSM's policy regarding the relationship between successive ascending or descending levels of corporate structure and percentage of ownership of an entity. In the preamble to the 1988 ownership and control rule, OSM stated that ownership does not "dilute" as it goes up or down a hierarchy of owners or controllers. In that preamble, OSM noted that the definition of ownership and control relating to instruments of ownership or voting securities would be used

"in determining whether control exists between indirectly related corporate entities and will apply at each level of a corporate structure. For example, if Company "A" owns a forth-five percent interest in Company "B," and Company "B" owns a twenty percent interest in Company "C" (the applicant), then Company "A" will be presumed to own or control the applicant, even though Company "A" has an indirect interest in the applicant of only nine percent. The determining factor is not the percentage owned, but whether control exists. In such an example, if Company "A" owned or controlled Company "D" which had a violation, the applicant will not be issued a permit unless it submits evidence proving that it is not controlled by Company "B," Company "B" is not controlled by Company "A", Company "A" does not own or control Company "D", or Company "D" is not a violator." (53 FR 38874)

Based on several years' experience with the AVS–OSM has determined that it is not feasible to apply this definition in this manner. Use of this interpretation has required applicants to submit, regulatory authorities to collect, and OSM to maintain information on levels of ownership of entities well beyond the extent to which any reasonable person would suggest that effective control might exist. As the amount of information in the AVS has increased, collection of information on multiple levels of ownership where the cumulative ownership share falls below 10% has resulted in large quantities of data that are rarely used to establish a link between an applicant and a violation being entered into the system. In short, collection, entry, and maintenance of this information has created a significant burden on the regulated community, State regulatory authorities, and OSM, but has had minimal benefit for the effective implementation of section 510(c) of SMCRA. Thus, OSM is proposing that the percentages of ownership at the various levels would be multiplied to determine the percentage of ownership which any remote owner has in the entity. Once an ownership share fell below 10% (in the above example, 45%×20%=9%), OSM is now proposing to hold that ownership or control for purposes of section 510(c) of SMCRA would no longer be presumed to exist. Similarly, once cumulative ownership fell below the over 50% level, OSM would hold that deemed ownership no longer existed, although presumed ownership would exist until the cumulative percentage fell below 10%.

OSM recognizes that, by changing its interpretation of this definition, there may be a few cases where a person with effective control over an entity would be excused from the definition of ownership or control under this specific test. However, if such control actually existed, the situation could be covered by proposed (a)(1)(ii).

This formula, as well as other definitions of ownership and control contained herein, would apply to the Small Operators Assistance Program (SOAP) requirements at 30 CFR Part 795. Specifically, they would apply to the attributed production requirement for SOAP eligibility and liability under that regulation.

In summary, OSM is today proposing reorganized and revised definitions of "owned or controlled and owns or controls" at § 773.5. Definitions for entities are found at (a) (1) and (2), and cover deemed and presumed owners and controllers, respectively. Definitions for surface coal mining operations are found at (b) (1) and (2), and also cover deemed and presumed owners and controllers, respectively.

Several additional points regarding these definitions need to be discussed. During development of the rule, OSM was asked whether there should be a floor under the definition found at proposed § 773.5(a)(2)(ii). That is, to what degree must a person control financial or other assets to be in control of an entity? OSM does not believe that it is necessary to address this issue in the regulations themselves. Clearly, control in this definition refers to control of assets that can affect mining operations. While each case would have to be looked at in the context of the facts of that case, OSM expects that control would not be found unless the person had the ability to commit a significant portion of the entity's assets that were involved in the mining operations themselves.

Secondly, OSM was asked about the relationship between the definitions of ownership or control for entities and those for surface coal mining operations. The premise of both the existing and the proposed regulations is that persons who control entities also control the operations that those entities conduct. Thus, a deemed owner of an entity—for example, a person owning of record greater than 50% of the stock—is deemed to control that entity's mining operations. However, the reverse is not necessarily true; control of surface coal mining operations does not, in and of itself, imply overall control of an entity conducting the operations. For example, an operator or mineral owner covered by proposed § 773.5 (b)(1)(ii) or (b)(2) may control surface coal mining operations being conducted by a permittee on a particular site, but not surface coal mining operations being conducted by the same permittee at other sites. In such a case, the operator or mineral owner would be considered a controller of the permittee, but only with respect to the particular site.

C. Section 773.17—Permit Conditions

This proposal would amend § 773.17(i) to delete the current permit condition that a permittee must provide updated ownership and control information to the regulatory authority within 30 days of receiving a cessation order. It would substitute a requirement that permittees instead follow the transfer, assignment or sale of permit rights procedures at § 774.17 for changes of permittees and the proposed permit revision procedures at § 774.13(e) for changes in operators, as a means of ensuring that regulatory authorities have up-to-date information on permittees and operators which control surface coal mining operations at a site.

This proposal includes some changes to the existing program. The current requirement in this section, specifying that permittees must submit to the regulatory authority updated ownership and control information within 30 days of receiving a cessation order, would be deleted. As discussed in 54 FR 8991, this provision was intended to insure that regulatory authorities had complete and accurate ownership and control information regarding violations, so that

all appropriate entities could be held responsible for the correction of such violations. OSM now believes that a different method is more appropriate for ensuring that the regulatory authority has needed information on entities directly controlling surface coal mining operations on a permit. Consequently, OSM is proposing to delete the current provision at § 773.17(i).

Additionally, OSM believes that the appropriate method for obtaining ownership and control information on permittees and operators is through the transfer, assignment or sale procedures, for permittees, the newly proposed permit revision procedures at § 774.13(e), for operators, and procedures for other ownership and control changes. These procedures are discussed elsewhere in this proposal. See the discussions of proposed §§ 774.13(e), 774.17, and 774.18. In proposed paragraph 773.17(i), OSM proposes that the obligation to follow the permit revision and transfer, assignment or sale procedures be a required permit condition. The details of the procedures to be followed are not included in this section, but rather are covered in §§ 774.13(e), 774.17, and 774.18, below.

D. Section 773.27—Periodic Check of Ownership or Control Information

This section was first discussed by OSM in the AVS procedures rule proposal of September 6, 1991 (56 FR 45780 *et seq.*). Subsequent to the development of that proposal, however, several factors have suggested that an additional provision should be added to the proposal. Consequently, OSM is today withdrawing proposed § 773.27, and is simultaneously reproposing the same provision in modified form as part of this proposal.

The September 1991 proposed rule established procedures for the regulatory authority to determine whether the information contained in the current official record of the permit concerning the permittee, the operator, and the MSHA identification number was and remains complete and accurate. If the regulatory authority determined that the information was not complete or accurate, several additional steps would be taken to resolve the matter. Such additional steps would include enforcement action requiring cessation of operations by any unapproved permittee or operator and the submission of an application for transfer, assignment, or sale of permit rights under § 774.17 of this chapter. Finally, proposed § 773.27(b)(2) provided that the regulatory authority take action in accordance with the provisions of § 843.23. Section 843.23 was also proposed on September 6, 1991, and is also reproposed here. This section would establish sanctions for knowing omissions or inaccuracies in ownership or control and violation information.

As is explained below, OSM is modifying the above proposal with respect to two provisions, §§ 773.27(a)(2) and (b)(1)(iv). The reproposed section is otherwise the same as that proposed in September 1991.

The first change, in proposed § 773.27(a)(2), would be to eliminate a requirement that regulatory authorities consult information from the Energy Information Administration (EIA), as provided by the AVS, to determine whether the permit record was complete. OSM has found, over the past couple years, that information from EIA is not particularly helpful in such determinations, and that the same information is generally found in other more readily available sources.

The second change, to proposed § 773.27(b)(1)(iv), is being made for consistency with other changes proposed today in provisions relating to obtaining regulatory authority approval for certain types of ownership and control changes. The provision proposed today, compared to the September 6, 1991 proposal, eliminates the requirement for enforcement action when there has been an attempt to change an owner or controller, other than the permittee or operator, without the written approval of the regulatory authority. This is consistent with the proposal regarding changes in ownership and control, other than permittees or operators, discussed below at § 774.18, which provides for such changes to be reported on a quarterly basis, rather than before they occur.

Proposed § 773.27 would require that the regulatory authority engage in periodic review of a permitted site to assure that basic ownership and control information contained in the current official record of the permit was and remains complete and accurate.

The underlying theory of this proposed section is that some permittees may inadvertently fail to provide accurate ownership and control information in their permit applications. Other permittees may intentionally provide misleading information in their applications to enable them to receive permits which would otherwise be blocked. In addition, relevant information as to ownership and control and as to the identification of operators may change over the life of a permit. In any of these situations, to the extent that a regulatory authority engages in periodic investigations subsequent to the issuance of a permit, there is a greater likelihood that only eligible persons are allowed to engage in surface coal mining operations and that the records of the regulatory authority will accurately reflect the actual facts of a particular permitted site.

Proposed § 773.27(a)(1)–(2) would require that the regulatory authority take certain actions to determine whether the information contained in the current official record of the permit concerning the permittee, the operator, and the MSHA identification number for the site was and remains complete and accurate. The actions required by paragraphs (a)(1) and (a)(2) would have to be undertaken by the regulatory authority at the first regular inspection after disturbance of a permitted site and annually thereafter for as long as coal extraction on the site was not completed. For currently active sites which have already been permitted, OSM expects that the regulatory authority would undertake these actions at the next regularly scheduled inspection, and annually thereafter. Actually, because of agreements that OSM and the States entered into in 1990, most active sites should already have been checked by the regulatory authorities for complete ownership and control information.

Proposed § 773.27(a)(1) provides that the regulatory authority would be required to conduct an on-site inquiry during a regular inspection of the site. Proposed § 773.27(a)(2) provides that the regulatory authority would be required to conduct a check of MSHA and AML information, as such information sources are made available through AVS.

Site disturbance is proposed as the key event triggering the regulatory authority's duty to conduct further investigation of previously submitted information. In the event that the permit application has failed to identify the operator who is actually conducting mining operations on the site, such operator can be readily identified once surface mining activities have begun.

An "on-site inquiry" means simply that the regulatory authority should be observing activities on the site and asking questions. For instance, if an inspector observes that the name on a mine identification sign or on motor vehicles or other equipment on the site is not listed in the permit application as an operator, permittee, or owner or controller, than the inspector should inquire as to the relationship of the

named entity to the operator, permittee, and owners or controllers so listed.

OSM has placed MSHA and AML information files directly into AVS. Accordingly, the proposed duty of the regulatory authority to check such files can be accomplished through use of AVS. The assumption of this proposed requirement is that these other databases are updated from time to time, based on reports submitted by the permittee or other operator. These procedures would help to assure that the regulatory authority is aware of changes relating to ownership and control relationships which are reported to and developed by the two Federal agencies.

Proposed § 773.27(b) would provide that if, after conducting an on-site inquiry and checking the MSHA and AML databases, the regulatory authority identifies any potential omissions, inaccuracies, or inconsistencies in the information previously provided in the permit application, or the regulatory authority identifies a change to such information, the regulatory authority would be required to take one or more of the actions delineated in paragraph (b)(1).

Proposed § 773.27(b)(1) would require the regulatory authority, in all cases, to promptly contact the permittee and require expeditious resolution of the matter through one or more of the actions listed in paragraphs (b)(1)(i)–(b)(1)(iv). The decision as to the appropriate action or actions to resolve a particular matter would be based upon the facts of a given situation.

Paragraph (b)(1)(i) would allow the regulatory authority to require, as a basis for resolution, that the permittee submit a satisfactory explanation which includes credible information to demonstrate that no actual omission, inaccuracy, or inconsistency existed at the time of permit issuance and that no subsequent change to such information has occurred.

"Credible" information would include the types of documentation presented in support of challenges to ownership or control links or to the status of violations as provided by previously proposed § 773.26. See 56 FR 45801–45803 (September 6, 1991). Such information would be submitted in this case, however, to make the demonstration required by paragraph (b)(1)(i) of proposed § 773.27.

Proposed § 773.27(b)(1)(ii) would provide that resolution of the apparent omission, inaccuracy, or inconsistency could include, if appropriate, amendment of the regulatory authority's current official record of the permit. Such amendments would be appropriate, for example, to make minor corrections in the record—for example, to correct the MSHA number for the site or to update the permittee's or operator's mailing address. They would not be appropriate to document changes in permittees or operators, which are discussed under paragraph (b)(1)(iv) below.

Under proposed § 773.27(b)(1)(iii), resolution of the apparent omission, inaccuracy, or inconsistency would include remedial action as provided by 30 CFR 773.20(c) in situations where complete and accurate information would have precluded issuance of the permit under 30 CFR 773.15(b). In a situation covered by paragraph (b)(1)(iii), the facts in existence at the time of permit issuance would have required a denial of the permit application had such facts been known. Accordingly, the regulatory authority would treat the permit as having been improvidently issued and would apply the remedial measures contained for such permits at 30 CFR 773.20(c).

Proposed § 773.27(b)(1)(iv) would require that resolution of the apparent omission, inaccuracy, or inconsistency include enforcement action under 30 CFR 843.11 or .12, or the State program equivalent, where there has been an attempt to change the permittee or operator of the surface coal mining operation without complying with the requirements for an operator change or for a transfer, assignment or sale of permit rights under 30 CFR 774.13 or 30 CFR 774.17, respectively, or the State program equivalent.

An unapproved operator change, without complying with the provisions proposed at § 774.13(e), below, would constitute a violation of the approved permit and the regulatory program. Essentially, such an unapproved operator would be conducting surface coal mining operations without a permit.

Under 30 CFR 774.17(a), "[n]o transfer, assignment, or sale of permit rights may be made" without regulatory authority approval. Proposed paragraph (b)(1)(iv) therefore refers to an unapproved transfer, assignment, or sale as an "attempt to change the permittee" even though a *de facto* change may have occurred on the mine site.

An unapproved transfer, assignment, or sale of permit rights does not relieve the approved permittee (and its owners or controllers) of responsibility for the surface coal mining operation. Moreover, such changes made without complying with § 774.17 would constitute a violation of the approved permit and the regulatory program. Except where mining operations are authorized under proposed § 774.17(f)(2), as explained below, any unapproved permittee would be conducting surface coal mining operations without a permit.

The provisions of proposed §§ 774.13, 774.17, and 774.18 are covered in more detail below.

Proposed § 773.27(b)(2) would require that the regulatory authority also take action, where appropriate, in accordance with the provisions of proposed § 843.23 or the State program equivalent. The provisions of proposed § 843.23 are discussed in detail below.

E. Section 774.13—Permit Revisions

In promulgating SMCRA, Congress specified general procedures for the transfer, assignment or sale of permit rights and for successors in interest. These procedures help ensure that persons who are not eligible to receive permits to conduct surface coal mining operations, because of ownership and control links to outstanding violations, including overdue abandoned mine land (AML) fees, do not receive such permits by transfer from other, eligible persons.

The terms "transfer, assignment or sale of permit rights" and "successor in interest" are currently defined in 30 CFR 701.5 as follows:

Transfer, assignment or sale of permit rights means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the regulatory authority.

Successor in interest means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

These definitions were promulgated March 13, 1979 (44 FR 15316 *et seq.*) and have not been changed since.

In its regulations at 30 CFR 774.17, promulgated September 28, 1983 (48 FR 44395 *et seq.*), OSM specified the procedures to be followed in the event of a transfer, assignment or sale of permit rights. In brief, these procedures require the permittee who desires to transfer permit rights to apply to the regulatory authority, providing certain legal, financial, compliance, ownership and control, and related information. Furthermore, the filing of the application must be advertised in a newspaper of general circulation in the locality of the operations involved. Any person having an interest which may be affected by a decision on the transfer, assignment or sale may submit written comments to the regulatory authority, within a time specified by the regulatory authority. See 30 CFR 774.17(c).

With the promulgation of the current ownership and control rule at 30 CFR 773.5 in October, 1988 (53 FR 38868 *et seq.*), the range of persons defined as owners or controllers, and thus subject to the transfer, assignment or sale procedures, became very broad. Thus, in its Directive INE–42, of March, 1991, OSM specified that transfer, assignment or sale of permit rights applies to all changes of ownership or control as defined by § 773.5. In essence, this means that any change in a director or officer of a company, any sale of more than 10% of stock in a company, any change of partners in a partnership, any change in permittee or operator at a site, or any other ownership or control change requires prior regulatory authority approval and a public comment process.

Subsequently, OSM has found that requiring transfer, assignment and sale procedures for all changes in ownership as defined by § 773.5 is excessively burdensome on both the industry and the State Regulatory Authorities, and does not significantly contribute to implementation of the requirements of section 510(c). For example, it is unrealistic to expect a company to obtain prior, written approval from the regulatory authority before hiring a new officer, or selling relatively small amounts of its stock. Furthermore, these requirements reach a broader range of persons than those who are likely to have an immediate impact on the manner in which surface coal mining operations are conducted.

To resolve this problem, OSM is today proposing three sets of regulatory changes: (1) Changes in the transfer, assignment, or sale definition, as discussed above at § 701.5, and other changes in the transfer, assignment, or sale provisions discussed at § 774.17, below; (2) new provisions for changes in operators, discussed in this section, and (3) new provisions for changes in other ownership and control categories, discussed at § 774.18, below.

Proposed new § 774.13(e) covers requests to change an operator on a permit. Proposed § 774.13(e)(1) establishes that any changes to an operator shall be submitted for approval to the regulatory authority, according to procedures set forth in the remaining paragraphs of proposed § 774.13(e).

Proposed § 774.13(e)(2) would establish application requirements for changes in operators. The proposed provisions are similar to those for permittee changes under the transfer, assignment or sale provisions at § 774.17. They include provision of the name and address of the permittee and the permit number; the name and address of the proposed operator, and the legal, financial, compliance, and related information required by part 778 of this chapter for the proposed operator.

At proposed § 774.13(e)(2)(i)(D), OSM is including a provision that this information can be submitted by certifying that information on the proposed operator contained in AVS is complete and accurate, rather than by submitting this information *de novo* with each application. This provision will appear several times throughout this proposed regulation. OSM intends this and other similar provisions to be used to reduce the information collection and paperwork burden place on the regulatory authorities and the regulated community. The AVS currently contains large amounts of information about the coal industry. Most active entities, including those who frequently conduct surface coal mining operations on behalf of a permittee, are recorded in the database. The information on such companies generally includes extensive data on officers, directors, shareholders, and other owners and controllers. It does not seem an efficient use of either private or public resources to continue to require submission of this information with each new permitting action, including changes of operators. In the event that the proposed regulation is adopted, a regulatory authority may choose a more stringent approach with respect to the submission of information. Accordingly, if a specific regulatory authority believes that it needs to continue to require any or all such information to be submitted with each permitting action, it may do so.

Proposed § 774.13(e)(2)(ii) would require the applicant for an operator change to advertize the filing of the application in a newspaper of general circulation in the locality of the operation involved, along with sufficient information to identify the proposed operator and the operation. OSM believes that the public interest in ensuring that operators conducting surface coal mining operations are eligible to conduct such operations is sufficient to warrant this requirement, given the amount of control that such operators have over mining methodologies.

Proposed § 774.13(e)(2)(iii) would establish that mining may be conducted by the proposed operator, prior to final approval by the regulatory authority, when certain conditions have been met: (A) The permittee has submitted to the regulatory authority a complete application for a change of operator; and (B) the regulatory authority has determined by checking the information in the AVS that the proposed operator is eligible to receive a permit to conduct surface coal mining operations. OSM believes these steps are necessary to accommodate the realities of the coal mining industry. In some cases, it may be necessary for a permittee to replace an operator on relatively short notice. To minimize the disruption to mining from the regulatory program, OSM believes that it is prudent to allow mining with the proposed new operator to proceed before the entire approval process is complete. OSM further believes that the two steps required here will, in most cases, ensure that operations are not conducted by individuals who are not eligible to receive permits to conduct surface coal mining operations.

Proposed 774.13(e)(3) would provide that any person having an interest which is or may be adversely affected by a decision on the change in operator, including an official of any Federal, State or local government agency, may submit written comments on the application to the regulatory authority within a time specified by the regulatory authority. This furthers OSM's concern that the public interest in ensuring that operators conducting surface coal mining operations are eligible to conduct such operations is accommodated.

Proposed § 774.13(e)(4) would establish criteria for approval of operator changes by the regulatory authority. It would provide that the regulatory authority may approve the operator change if it finds that the new operator (i) is eligible to receive a permit in accordance with § 773.15(b) and (c) of this chapter; and (ii) meets any other requirements of the regulatory authority.

Proposed § 774.13(e)(5) would cover situations where the regulatory authority found, during a routine inspection or through any other means, that an unapproved operator is operating on a site. It further would provide that the regulatory authority has to issue, under §§ 843.11–.12 of this part or the State program equivalent, a notice of violation to the permittee and a cessation order to the operator, specifying that the operator may not conduct surface coal mining operations until the application requirements discussed above have been met. Failure to comply with such orders can be handled by the regulatory authority through the State program equivalents of §§ 843.11 and .12.

OSM has carefully considered the appropriate remedy for this situation. OSM believes that operations by the unapproved operator must immediately

be ceased, until the regulatory authority has an opportunity to determine that the operator is, indeed, eligible to receive a permit to conduct surface coal mining operations. Further, OSM believes that the permittee should be penalized, with a notice of violation and appropriate attendant civil penalties, for authorizing the unapproved operator to conduct operations on the permit. However, OSM also believes that it is appropriate to allow operations under the permit to continue, either with the previous (approved) operator, or the permittee itself. OSM is particularly interested in comments on this issue.

Proposed 774.13(e)(6) would require the regulatory authority, within 30 days of its decision regarding any operator change, to enter the new operator information into AVS. OSM believes that prompt updating of the AVS is critical to allowing the database to be used as a substitute for certain permit information requirements.

F. Section 774.17—Transfer, Assignment, or Sale of Permit Rights

This proposed section revises existing provisions for the transfer, assignment or sale of permit rights by requiring a complete inspection prior to the regulatory authority's approval of a transfer, assignment, or sale, allowing provision of required information by reference to AVS, and by allowing for continued operations prior to final regulatory authority approval of a proposed change in permittee. These proposed provisions should be considered in conjunction with the proposed change to the definition of transfer, assignment, or sale of permit rights, discussed above under proposed § 701.5. That proposed change in definition would mean that the following proposed provisions would apply only to changes in permittees, not to changes in any other categories of ownership or control. However, OSM understands that, because of variations in State statutes, situations in which these requirements are applied may vary somewhat from State to State. For example, one State may consider the sale of one company to another, without any other change in corporate structure, to be a change in permittee; another State may not.

Specifically, proposed § 774.17(a) would require the regulatory authority to conduct a complete inspection of a permit area within a 30 day period just prior to granting the permittee's request for a transfer, assignment, or sale of permit rights under that permit. OSM believes this requirement is needed to ensure that the current permittee, as well as the new permittee, are held responsible for violations that are outstanding at the time of the transfer.

Proposed § 774.17(b)(1)(iv) would allow an applicant to certify that the relevant information in AVS on the proposed new permittee is complete and accurate as of the date of the certification, in lieu of submitting information on ownership or control required by this section, or any portion thereof.

As discussed above under proposed § 774.13(e)(2)(i), this provision is intended to reduce the information collection and paperwork burden placed on the regulatory authorities and the regulated community. The AVS currently contains large amounts of information about the coal industry. Most active entities, including those who hold permits, are recorded in the database. The information on such companies generally includes extensive data on officers, directors, shareholders, and other owners and controllers. It does not seem an efficient use of either private or public resources to continue to require submission of this information with each new permitting action, including changes of operators. In the event that the proposed regulation is adopted, a regulatory authority may choose a more stringent approach with respect to the submission of information. Accordingly, if a specific regulatory authority believes that it needs to continue to require any or all such information to be submitted with each permitting action, it may do so.

Proposed § 774.17(f)(1) would simply renumber current § 774.17(f) as (f)(1). Proposed new § 774.17(f)(2) would allow an applicant who has not received final approval of a transfer, assignment, or sale of permit rights to conduct surface coal mining operations under an existing permit, pending the final decision on the application for a transfer, assignment, or sale of permit rights, when certain conditions were met: (i) The applicant has submitted to the regulatory authority a complete application for transfer, assignment, or sale of permit rights in accordance with paragraph (a) of this section; (ii) the regulatory authority has determined that adequate bond coverage and liability insurance will continue to exist with respect to the surface coal mining operation subject to the transfer, assignment, or sale of permit rights; and (iii) the regulatory authority has determined by checking the information in the AVS that the proposed transferee, assignee or purchaser of the rights is eligible to succeed to mining rights under the permit.

This proposal reflects procedures which OSM believes ensure that entities ineligible to receive permit rights do not indeed receive such rights. Further, these provisions accommodate the need of the coal industry to expedite the transfer, assignment, or sale procedure.

OSM believes that, of the various steps required in the transfer, assignment, or sale process, three are most critical for ensuring that rights of eligible transferees, assignees or purchasers are protected and that the environment is protected from inappropriate transfers. These three include a (i) complete application for transfer, (ii) maintenance of adequate bond and insurance coverage, and (iii) the review of information on AVS. Review of the information contained in the complete application and in AVS assures that the regulatory authority will know if the applicant is associated with violations that would prevent the applicant from receiving a permit to mine. Adequate bonding and insurance for the permit helps protect the environment and assures that funds will be available for reclamation. Consequently, OSM has incorporated these critical requirements into proposed paragraph (f)(2). Once these requirements are met, the other requirements of the transfer, assignment and sale process, including the opportunity for public comment, can be accommodated while mining at the site continues. Of course, if it is discovered during the remaining steps of the process that the applicant is, in fact, ineligible to receive a permit, the transfer application would be denied, the interim authorization to mine would be revoked, but the original permit would remain place.

G. Section 774.18—Changes in Ownership or Control Information

In this section, OSM is proposing an entirely new approach to changes in owners and controllers of entities or surface coal mining operations, as defined above at § 773.5, compared to present provisions, except for permittees or operators, which are discussed under proposed §§ 774.17 and 774.13(e), respectively. Currently, changes to all owners and controllers are covered by the transfer, assignment or sale provisions at § 774.17, as a result of the inclusive nature of the definition of transfer, assignment or sale of permit rights provisions in current § 701.5. This is discussed more fully in the discussion of proposed § 701.5, above. OSM is now proposing three separate procedures for changes of owners or controllers: One for changes in operators, discussed above at proposed § 774.13(e); one for changes in permittees, essentially existing transfer,

assignment or sale procedures at § 774.17; and the procedures proposed here at § 774.18 for all other changes in ownership or control.

Essentially, the procedures proposed for changes in owners or controllers other than operators or permittees would not require prior, written approval of the regulatory authority for changes in these other owners or controllers. Such owners or controllers include officers, directors, shareholders, general partners, persons owning the mineral and having the right to receive the coal from a surface coal mining operation, persons having the ability to commit the financial or real property assets or working resources of the entity, and other persons who can control the method of mining at a mining operation. Other requirements of the current procedures, such as public notice and comment, would also be removed. Instead, there would be a requirement to report changes in all such owners to OSM on a quarterly basis. OSM would, following appropriate review, as discussed below, enter such owners or controllers into the AVS. Thus, what was once a requirement to obtain prior approval of the regulatory authority would become a requirement to inform OSM of such changes within a specific time period.

In brief, the procedures would operate as follows. If a corporation elects a new president, for example, it would report the change to OSM within 30 days of the end of the calendar quarter. When OSM received information that a change in ownership or control of the type covered by this section had been made, OSM would review the documentation to ensure that it was adequate to substantiate that the change had indeeed occurred. Currently, OSM accepts certified copies of corporate minutes, letters signed by the secretary of a corporation, or other similar documentation as sufficient proof that the reported change in ownership or control has indeed occurred. Additionally, OSM would review each new owner or controller against the information available in the AVS, to ensure that the person was not linked to a violation. If such a link were found, the AVS Office would notify the entity submitting the information, and any individual owner or controller, of the link, and any of those persons could challenge the link. If, following its consideration of any such challenge, OSM made a final determination that the link to a violation did indeed exist, OSM would notify any State regulatory authorities that had permit applications pending or that had issued permits affected by the owner or controller change. The regulatory authority would deny any pending permits until the violation was resolved, or, where a permit had already been issued, would take appropriate action under the State program equivalent of § 773.20. A permit that was issued prior to the new owner or controller being associated with a permittee would not technically be improvidently issued. However, a change of ownership or control in which a person linked to a violator assumes a control position with a permittee constitutes a material change in the facts upon which the permit approval was based. The regulatory authority approved the permit based upon facts which assumed that the permittee was not a violator or linked to a violator. Such a change would give the regulatory authority cause to review the validity of the permit under those procedures, or other procedures appropriate under the specific State program.

The proposed procedures would require notification of OSM on a quarterly basis. OSM intends to incorporate these requirements into the quarterly reporting of information regarding AML Fees on the OSM–1 form. Use of that form should consolidate the reporting requirements, and eliminate the need for any additional documentation to substantiate ownership or control changes. OSM is interested in receiving comments on the proposed schedule of reporting, and on the use of the OSM–1 form for this purpose. For the present, OSM will continue accepting notifications of ownership or control changes by letter, as it does now.

OSM does not intend this process to interfere with the normal permitting review process conducted by the State regulatory authorities. OSM intends to ensure that it has adequate documentation to substantiate any changes made in the AVS. OSM also believes that the regulatory authorities may rely on the information in the AVS as up-to-date and accurate, as far as these owners or controllers are concerned, in accordance with the position taken by OSM in the preamble of the improvidently issued permit rule. See 54 FR 18438–444 (April 28, 1989). It should be noted that a person denied a permit can challenge any basis for a permit denial by a regulatory authority including a link between an owner or controller to a violation, to the extent that such person has not previously had the opportunity to appeal such a link. See OSM's Ownership and Control Rule, 53 FR 38868, 38885. Furthermore, OSM notes that this procedure is not intended to stand in the place of the section 510(c) review required during the permitting process. OSM's collection and management of information on officers, directors, shareholders, and other owners and controllers will not reach to permit specific information, nor to compliance information such as that required by § 778.14 of these regulations.

OSM believes that these procedures are more consistent with common and accepted business practices that are the current transfer, assignment or control requirements. They provide one central point for the regulated community to contact to keep ownership or control information up-to-date. Additionally, the current procedures have proven almost impossible to implement, not only because it is impractical for companies to obtain prior regulatory authority approval for all changes in officers and directors, but also because the constant flux in the management of the industry presents a very difficult data update problem to the government. Furthermore, OSM believes that providing information to OSM on a timely basis, coupled with review procedures discussed below, will be sufficient to ensure that individuals who are not eligible to receive permits to conduct surface coal mining operations do not indeed receive such permits. These proposed procedures also provide the opportunity to considerably reduce paperwork burdens on the regulated community and on the State regulatory authorities. Finally, OSM believes that providing this information through one central point will assist in keeping the ownership and control information in AVS current and accurate. In turn, this will enhance the utility of AVS as a tool for OSM and the State regulatory authorities to use in meeting the requirements of section 510(c) of the Act.

The specific provisions being proposed are as follows. Proposed § 774.17(a) would establish the basic requirement that all changes, replacements or additions to the ownership or control of a surface coal mining operation or of an entity controlling such operation, as defined in § 773.5 of this part, except for changes of permittees or operators, must be reported to OSM on a quarterly basis. It would also require entities operating in only one state to report any changes to the appropriate State regulatory authority. OSM recognizes that State regulatory authorities are in a better position to know such localized entities. Further, the States can notify OSM in the event that reported ownership or control changes appear inconsistent

with the State's knowledge of the particular entity.

Proposed § 774.18(b) would contain reporting requirements. It would specify that all persons reporting a change in ownership or control information must (1) provide the legal, financial, and related information required by § 778.13 of this chapter for the new owners or controllers; and must (2) specify which existing owners or controllers have been replaced, if any. The first requirement is similar to that currently found in the existing transfer, assignment, or sale of permit rights procedures. The second requirement, specification of which existing owners or controllers have been replaced, is a new requirement. Such information will facilitate implementation of the requirements in that section by allowing OSM to remove out-of-date information from the AVS.

Proposed § 774.18(b)(3) would specify that, in lieu of submitting information on ownership or control required by this section, or any portion thereof, an applicant could certify to OSM that the relevant information in AVS on the proposed new owner or controller is complete and accurate as of the date of the certification. This provision is consistent with similar provisions found in proposed §§ 774.13(e) and .17, discussed above. It is explained more fully in the discussion of the proposed identification of interest provisions, covered below at § 778.13.

Proposed § 774.18(c) requires OSM to review the information to determine whether the new owners or controllers are eligible to receive a permit in accordance with § 773.15 (b) and (c) of this chapter, and to immediately notify the entity when any such owner or controller is found to be ineligible due to a link to a violation or outstanding penalty or fee. This review would be conducted mainly by reference to the information in AVS. Further, OSM would use any other sources of information available to it. Along with the proposed provisions at paragraphs (d) and (e) below, this provision is intended to provide persons with due process by ensuring that they have an opportunity to submit information to OSM refuting or rebutting a purported link to a violation, before such a link is actually used by OSM or a State regulatory authority to block issuance of a permit or to cause an existing permit to be revoked or rescinded.

Proposed § 774.18(d) would allow the entity submitting the information and/or any owners or controllers found to be linked to a violation, unless bound by a prior administrative or judicial determination, to challenge the link to the violation by submitting a written explanation of the basis for the challenge, along with any relevant evidentiary materials and supporting documents, to OSM, addressed to the Chief of the AVS Office, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, DC 20240. The Director or the Director's designee will make the final decision on behalf of the agency. OSM is interested in comments on whether more than one appeal level is needed within the agency.

Proposed § 774.18(e) would require OSM to review any information submitted under paragraph (d) of this section, discussed above, and to make a written decision whether or not the ownership or control link has been shown to be erroneous or has been rebutted.

Proposed § 774.18(f) would provide that if, as a result of the decision under paragraph (e) of this section, discussed above, OSM determines that the ownership or control link has not been shown to be erroneous and has not been rebutted, OSM would notify the entity and the owner or controller. OSM would also be required to update the information in AVS promptly, if necessary. This section further stipulates that notification would be made in accordance with the provisions of 30 CFR 843.14.

Proposed § 774.18(g) would provide that the decision regarding the link could be appealed within 30 days, under the procedures in proposed 43 CFR 4.1386, but that OSM's decision would remain in effect during the pendency of any appeal, unless temporary relief were granted in accordance with 43 CFR 4.1386, or a State program equivalent. This is identical to a provision previously proposed at 56 FR 45801 and discussed at 56 FR 45787.

Proposed § 774.18(h) would provide that when an application is pending or the entity has a surface coal mining operation under permit, OSM would notify the regulatory authority which is considering the application or which has issued the permit. This would allow the regulatory authority to take the necessary steps to resolve the violation.

Proposed § 774.18(i) would establish these steps. It would specify that when an ineligible owner or controller of an entity holding a permit to conduct surface coal mining operations was identified, the regulatory authority would (1) require the permittee to implement a plan for abatement of the violation or a schedule for payment of the penalty or fee, in cooperation with the responsible regulatory authority; (2) condition the permit requiring abatement or payment; (3) suspend the permit until the violation is abated or the penalty or fee is paid; or (4) rescind the permit consistent with procedures in § 773.21 of this part. These procedures are identical to those currently found in § 773.20(c).

H. Section 778.13—Identification of Interests

This section currently specifies in considerable detail the information on the ownership and control relationships of permit applicants, as well as similar information on other operations to which the applicant is linked through ownership or control, which must be provided as part of the permit application process. Much of the information required to be submitted with each permit application by this section is already contained in the AVS, especially for persons who participate regularly in the surface coal mining business. Industry has complained about the collection of redundant data. OSM agrees. The AVS can and should be used to reduce the information collection burden currently placed on the regulatory authorities and on permit applicants, without losing information critical to the implementation of section 510(c) requirements.

AVS should fulfill the role of being a major source of information on which to base the compliance review required by section 510(c) of the Act to ensure that no ineligible parties receive permits to mine. Such a role has in fact already been assigned to the AVS by the "Improvidently Issued Permit Rule." See 54 FR 16438 *et seq.* (April 28, 1989). There, OSM stated that, "subject to the review standard set out [above], a regulatory authority may rely on the information in the AVS as up-to-date and accurate. * * * Under this rule a proper query of the AVS will constitute a reasonable inquiry of the information available to the regulatory authority, and absent some defect in the violation information provided in the permit application, or inadequate use of other information that actually was known to the regulatory authority, an error in or omission from the AVS will not provide the basis for a finding that a permit was improvidently issued." *Id.* at 18444. This statement assigns the AVS a very significant role in the section 510(c) review process, and highlights the need for OSM to maintain the AVS in as accurate and current a state as possible.

This role for AVS would be further strengthened by the promulgation of the procedures for proposed permittee or operator changes, or replacements or additions of owners or controllers,

discussed at proposed §§ 774.13(e), 774.17, and 774.18, respectively.

OSM believes that it is appropriate for the AVS to assume a greater responsibility by containing the information needed to enable regulatory authorities to perform the review required by section 510(c) of the Act and to ensure that parties linked to outstanding violations do not receive permits. The AVS has become a large, complex system containing data on thousands of entities in the surface coal mining industry. OSM believes it is appropriate at this time to continue and to increase efforts to enhance the data in AVS. Further, OSM wants to encourage more timely and accurate updates on the part of industry. This section of the proposed regulation, as well as the following three proposed sections, all are intended to implement these basic principles. In the present instance, timely entry of information concerning changes in the owners or controllers of entities or surface coal mining operations is obviously critical to OSM's efforts to maintain AVS' data in a complete, up-to-date fashion.

OSM is proposing two major changes to § 778.13. First, OSM is proposing to remove completely certain requirements for ownership and control information in permit applications. Second, OSM is proposing an alternate means by which permit applicants can provide required information to the regulatory authority.

Currently, § 778.13(c) specifies that applicants must provide certain ownership or control information for all categories of ownership or control, as defined in § 773.5. OSM is proposing to eliminate the requirement that the applicant provide information on ownership and control categories defined in proposed § 773.5(a)(1)(ii), (a)(2)(ii), and (b)(1)(iii). These categories include, for entities, owners or controllers that have any relationship which gives a person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations or that have the ability to commit the financial or real property assets or working resources of an entity; and, for operations, owners or controllers that have any relationship which gives a person authority directly or indirectly to determine the manner of conducting the operation.

OSM is proposing to excuse these categories of ownership or control from the permit information requirements because it has found that the application of these definitions generates considerable confusion within industry. Furthermore, it is clear that there can be good faith, reasonable differences of opinion concerning whether a particular purported owner or controller, as defined by one of these categories, is indeed an owner or controller. Unlike the other categories of ownership or control, these categories are "conclusory," often requiring research to reach a conclusion that such a relationship does exist. Industry has complained that OSM has, with such definitions, established a situation in which a particular entity could be accused of providing incomplete ownership or control information in its permit application, even though it did not indeed realize or believe, in good faith, that an ownership or control relationship existed. Considering that failure to provide complete ownership and control information would now be defined to be a violation of the Act (proposed § 843.23(a)(2)), the consequences of such a failure can be serious for the entity. OSM wants to avoid potential situations whereby considerable effort may be expended in attempts to demonstrate that an entity has knowingly failed to provide such information when, in reality, the "failure" was the result of a good faith debate over ownership or control relationships. OSM believes that such cases could absorb a disproportionate share of the resources available to conduct research into ownership and control relationships and to deal with violations of the Act. The limited resources of OSM and the State regulatory authorities can be better spent elsewhere.

Removing the requirement that entities provide ownership or control information on these conclusory types of ownership or control as part of their permit applications does not, of course, mean that such relationships do not exist. They will continue to be included in the definitions of ownership or control, and can be established by the regulatory authority when necessary. OSM has found, in its application of the ownership and control definitions at § 773.5 to the operation of the AVS, that very few examples of such owner and controller categories are ever provided as part of the permit information submitted by an applicant. The few examples that have been reported have in general come from the research conducted by a regulatory authority or by OSM itself. OSM expects that this research will continue to produce some such ownership or control links.

This approach is consistent with that taken in the preamble to the ownership or control rule. In the discussion of current § 773.5(a)(3), OSM noted that, under paragraph (a)(3), the regulatory authority has to establish that control exists (53 FR 38870). In its Memorandum of Points and Authorities in Support of the Government's Motion for Summary Judgement, filed on April 23, 1990, by the Secretary in *National Wildlife Federation* v. *Lujan*, No. 88–3117–AER etc., (D.D.C.) (consolidated), the government repeatedly asserts that § 773.5(a)(3) places upon the regulatory authorities the entire burden of proof that any relationship not otherwise addressed in § 773.5 constitutes actual control of a surface mining operation (p. 38). Again, (p. 43), the government states that pursuant to § 773.5(a)(3), the regulatory authority bears the burden of proving that a control relationship exists.

Similarly, the government points out that, pursuant to the terms of § 773.5(b)(3), the regulatory authority reviewing a permit application must make a *prima facie* showing that [someone] can commit the financial or real property assets of an entity (p. 44). In effect, the regulatory authority has the burden of making an initial showing of the control relationship.

These specific categories of ownership and control, shown in this proposal as definitions § 773.5(a)(1)(ii) and (a)(2)(ii), are those which OSM is proposing to exempt from the information requirements of permit applicants. This proposal is consistent with the government's position in court as stated in its brief, which imposes the initial burden of proof upon the regulatory authority, rather than upon the applicant.

The proposed revision of § 778.13(j) would allow permit applicants to submit any and all information required by this section and by § 778.14 of this part by certifying to the regulatory authority that the information on AVS is complete, accurate, and up-to-date. This is consistent with the discussions of information found at proposed § 774.13(e) and § 774.14, above. OSM anticipates that this provision will significantly reduce the reporting burden for many permit applicants, and for regulatory authorities as well. The AVS currently contains extensive information on many entities in the surface coal mining industry, including their permits, permit issuance dates, ownership and control links, links to violations, and other data required in the permit application process. Submitting such information with each permit application can be redundant, particularly for those entities who apply for permits, permit renewals, permit revisions, or other permitting actions on a regular basis. In the event that the proposed regulation is adopted, a regulatory authority may choose a more

stringent approach with respect to the submission of information. Accordingly, if a specific regulatory authority believes that it needs to continue to require any or all such information to be submitted with each permitting action, it may do so.

It seems unlikely that any but the most active companies will apply for permits so frequently that on any one occasion the information contained in the AVS will be completely up to date. Nevertheless many entities should be able to submit relatively brief updating material as part of their permit application. This should result in a significantly reduced reporting burden.

For some time, OSM has been working with individual companies to update their ownership and control information in the AVS. OSM will be available to provide assistance to any entity wishing to review and update the information contained in the AVS about that entity.

I. Section 843.23—Actions for Knowing Omissions or Inaccuracies in Ownership or Control and Violation Information

This section was proposed to be amended by the AVS procedures rule proposal of September 6, 1991 (56 FR 45780 *et seq.*). During the process of developing this rulemaking, however, it became apparent that a number of minor changes were needed in the September, 1991 proposal. Consequently, OSM is today withdrawing proposed § 843.23, and is simultaneously reproposing the same paragraph in modified form as part of this proposal. Such changes include a change in the proposed wording and title of the regulation to indicate that the options available to OSM would be "actions," rather than "sanctions." For any provisions finalized for this section, OSM will add a cross reference in § 840.13(b) to § 843.23, requiring that State programs be amended accordingly, consistent with the provisions of § 840.13(b).

The September, 1991 proposal provided certain actions (referred to as sanctions) to be taken by OSM for knowing omissions or inaccuracies in ownership or control and violation information. The proposal provided for OSM action in the event of knowing failures to provide complete and accurate information, including permit denial, issuance of a notice of violation, and criminal prosecution. Cross-references contained in paragraph 843.23(a)(1) directed the reader to several different sections of OSM regulations, all of which discussed information requirements associated with permit applications or with changing or challenging AVS information.

The list of cross-references did not, however, include any mention of the transfer, assignment, or sale provisions of the regulations. However, OSM now believes that it is critical that permittees be held accountable for submitting complete, accurate, and timely information during these processes. This is particularly true since OSM is proposing to delete the provision requiring updates of ownership and control information within 30 days of receiving a cessation order, currently found in § 773.17(i). Only with prompt updates relating to the transfer, assignment, or sale of permits, changes of operators, and other changes in ownership or control, will OSM be able to ensure that the AVS is accurate and current, and can justify the reliance placed on the system by the new permit information provisions contained in proposed § 778.13. Consequently, OSM is proposing to add a cross-reference to this provision in the version of § 843.23 proposed here. OSM is also proposing to add cross-references to the permit revision information required in § 774.13, the violation information required in § 774.14, and the ownership and control information required in proposed § 774.18. These cross-references clarify that OSM would take action for failure to provide complete and accurate ownership or control or violation information through the transfer, assignment, or sale process, the permit revision process, and the ownership and control update process, as well as the permit application process and the processes for requesting changes to information in AVS.

Proposed § 843.23 is designed to respond to those circumstances in which there are material omissions and inaccuracies and in which there has been a knowing failure to provide the regulatory authority with complete and accurate ownership and control or violation information in an application or other document submitted pursuant to parts 773 and 778 of title 30. The inclusion of a materiality standard is a further modification of the September 6, 1991, proposal. In substance, material omissions or inaccuracies are those which are relevant and which have or may have an impact upon the regulatory authority's decision with respect to an application or other document submitted.

Pursuant to section 201(c)(2) of SMCRA, the Secretary, acting through OSM, is authorized to "publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act". Proposed § 843.23 is designed "to carry out the purposes" of sections 507(b)(4), 510(b), 510(c), and 518(g) of SMCRA. The proposed section would deter and publish the intentional failure to provide the complete and accurate ownership and control information required by sections 507(b)(4) and 510(b)-(c). It would further implement the provisions of section 518(g) where appropriate.

OSM recognizes that ownership and control relationships can be complicated. There may be honest disagreements among reasonable people as to whether the facts of a particular matter establish an ownership and control relationship. In submitting information to a regulatory authority, people acting in good faith may inadvertently fail to provide complete or completely accurate information. The actions of proposed § 843.23 are not designed for such situations. The actions are designed to respond to situations of knowing concealment or deception.

Under paragraph (a)(1) of proposed § 843.23, OSM would determine whether material omissions or inaccuracies contained in an application or otherwise provided pursuant to 30 CFR parts 773, 774 and 778 were the result of a "knowing failure" to provide complete and accurate information. Today's proposal makes clear that such consideration is to be made with respect to documents provided to OSM.

Under the proposed regulation, a knowing failure would include any knowing submission of false information and any failure by a person to provide complete and accurate information where the person knew or had reason to know that such failure could mislead OSM as to the facts of ownership or control relevant to a surface coal mining operation or the status of any violation. OSM would examine the totality of the circumstances to determine what an individual knew or had reason to know when he or she supplied false information.

Paragraph (a)(2) of proposed § 843.23 would reaffirm the principle that such a knowing failure to provide complete and accurate information to OSM is a violation of the Act. See sections 507(b)(4), 510(b), 510(c) and 518(g) of SMCRA.

Paragraph (b)(1) of proposed § 843.23 would require OSM to take one or more actions, from the list of actions provided, following prompt consideration of which is most appropriate, in the event that OSM determines that a person knowingly failed to provide complete and accurate

ownership and control or violation information. The proposed actions include denial of a permit for failure to comply with 30 CFR 773.15(c)(1), issuance of a notice of violation, along with assessment of an appropriate civil penalty, and criminal prosecution under section 518(g) of the Act which is codified as 30 U.S.C. 1268(g).

Paragraph (b)(2) of proposed § 843.23 would provide that any actions taken under paragraph (b)(1) would be in addition to any actions taken by OSM under the provisions of paragraphs (b)(1)(iii)-(iv) of proposed § 773.27. The provisions of proposed § 773.27 are discussed in detail in this Preamble above.

OSM would choose the appropriate action or combination of actions based upon the facts of a particular case. Further, the choice of one of the listed actions does not preclude imposition of another listed action. The egregiousness of the behavior and OSM's ability to prove such behavior before a reviewing tribunal would be factors in the choice of actions to be taken.

IV. Procedural Matters

Effect of the Rule in Federal Program States and on Indian Lands

The proposed revisions, if adopted, will apply through cross-referencing in those States with Federal programs: California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The proposed rule, if adopted, will also apply through cross-referencing to Indian lands under the Federal program for Indian lands as provided in 30 CFR part 750. Comments are specifically solicited as to whether unique conditions exist in any of these Federal program states or on Indian lands relating to this proposal which should be reflected either as changes to the national rules or as specific amendments to any or all of the Federal programs or the Indian lands program.

Effects of the Rule on State Programs

The provisions of section 503(a)(1) of the Act require that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of the Act. Further, section 503(a)(7) of the Act requires that State programs contain rules and regulations "consistent with" regulations issued by Secretary pursuant to the Act.

These terms are defined by § 730.5 of title 30 of the Code of Federal Regulations to require that State programs contain procedures which are, with respect to the Act, no less stringent than the Act; and with respect to the Secretary's regulations, no less effective than the Secretary's regulations in meeting the requirements of the Act.

If the proposed rules are adopted, OSM will then evaluate State programs to determine whether any changes in these programs will be necessary. If OSM determines that any State program provisions should be amended to be made no less effective than the revised Federal rules, the individual States will be notified in accordance with the provisions of 30 CFR 732.17.

Federal Paperwork Reduction Act

The collection of information contained in this rule has been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Public reporting burden for this collection of information is estimated to vary from 1 to 24 hours, depending on the action being taken and the size of the company responding. Average burden for a mid-sized company requesting a change in operator, the most common action under these rules, is estimated to average 4 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement (OSM), 1951 Constitution Ave., room 640 NC, Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1029–0041) (1029–0034) (1029–0088), Washington, DC 20503.

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under the criteria of Executive Order 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rules would allow persons desiring to conduct surface coal mining operations to submit some required permit application information by reference to AVS, thus reducing the reporting burden on permit applicants.

The economic effects of the proposed rule are not estimated to be significant or have a negative impact because the rule eliminates reporting requirements thereby reducing costs to industry. The rule does not distinguish between small and large entities.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) of this proposed rule and has made a tentative finding that the proposed rule would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). It is anticipated that a Finding of No Significant Impact (FONSI) will be approved for the final rule in accordance with OSM procedures under NEPA. The EA is on file in the OSM Administrative Record at the address specified previously (see "ADDRESSES"). An EA will be completed on the final rule and a finding made on the significance of any resulting impacts prior to promulgation of the final rule.

Executive Order 12778 on Civil Justice Reform

This proposed rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform (56 FR 55195). In general, the requirements of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this proposed rule. Additional remarks follow concerning individual elements of the Executive Order:

A. What would be the preemptive effect, if any, of the regulation?

The proposed regulation would have the same preemptive effect as other standards adopted pursuant to SMCRA. To retain primacy, States have to adopt and apply standards for their regulatory programs that are no less effective than those set forth in OSM's regulations. Any State law that is inconsistent with or that would preclude implementation of the proposed regulation would be subject to preemption under SMCRA section 505 and implementing regulations at 30 CFR 730.11. To the extent that the proposed regulation would result in preemption of State law, the provisions of SMCRA are intended to preclude inconsistent State laws and regulations. This approach is established in SMCRA, and has been judicially affirmed. See *Hodel* v. *Virginia Surface Mining and Reclamation Ass'n*, 452 U.S. 264 (1981).

B. What would be the effect of the regulation on existing Federal law or regulation, if any, including all provisions repealed or modified.

The proposed regulation would modify the implementation of SMCRA as described herein, and is not intended to modify the implementation of any other Federal statute. The preceding discussion of the proposed action specifies the Federal regulatory provisions that are affected by the proposed revision.

C. Would the regulation provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by the regulation would be as clear and certain as practicable, given the complexity of the topics covered and the mandates of SMCRA. The purpose of this proposed regulation is to establish clear and certain standards in order to implement a more effective program. As stated in the preamble, the proposed rule would promote a significant reduction in burden hours as well as simplifying the current regulatory language.

D. What would be the retroactive effect, if any, to be given to the regulation?

This applies prospectively to future regulatory actions, but affects the standards under which OSM and the State Regulatory Authorities would analyze past events. In the preamble to the ownership and control rule, OSM stated that ownership does not "dilute" as it goes up or down a hierarchy of owners or controllers. For example, if Company "A" owns forty-five percent interest in Company "B" and Company "B" owns twenty percent interest in Company "C" (the applicant), then Company "A" will be presumed to own or control the applicant, even though Company "A" has an indirect interest in the applicant of only nine percent. Under existing regulations this indirect interest has to be reported. OSM has determined that it is not feasible to apply this definition in this manner due to the multiple levels of ownership where the cumulative ownership share falls below ten percent. Thus, OSM is proposing that the percentages of ownership at the various levels would be multiplied to determine the percentage of ownership which any remote owner has in the entity. Once a share falls below ten percent or cumulative falls below fifty percent ownership and control will no longer exist. The new percentage requirements would significantly reduce the current reporting burden placed on the regulatory authorities and the applicant.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings would be required before parties may file suit in court challenging the provisions of the proposed revision under section 526(a) of SMCRA, 30 U.S.C. 1276(a).

Prior to any judicial challenge to the application of the revision, however, administrative procedures must be exhausted. In situations involving OSM application of the revision, applicable administrative procedures may be found at 43 CFR part 4. In situations involving State regulatory authority application of provisions equivalent to those contained in the proposed revision, applicable administrative procedures are set forth in the particular State program.

F. Would the proposed action define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items.

Terms which are important to the understanding of the proposed action are set forth in 30 CFR 701.5, 773.5 and 843.5.

G. Would the regulation address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

Author

The principal author of this proposed rule is Annetta L. Cheek, Chief, Applicant/Violator System Office, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, DC 20240. Inquiries with respect to the proposed rule should be directed to Dr. Cheek at the address and telephone specified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects

30 CFR Part 701

Law enforcement, Surface mining, Underground mining.

30 CFR Part 773

Administrative practice and procedure, Reporting and recordkeeping requirements, Permits, Surface mining, Underground mining.

30 CFR Part 774

Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 778

Administrative practice and procedure, Reporting and recordkeeping requirements, Permits, Surface mining, Underground mining.

30 CFR Part 843

Administrative practice and procedure, Law enforcement, Reporting and recordkeeping requirements, Permits, Surface mining, Underground mining.

Accordingly, it is proposed to amend 30 CFR parts 701, 773, 774, 778, and 843 as follows:

Dated: January 11, 1993.

Richard Roldan,

Deputy Assistant Secretary, Lands and Minerals Management.

PART 701—PERMANENT REGULATORY PROGRAM

1. The authority citation for Part 701 continues to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq., as amended*), and Pub. L. 100–34.

2. Section 701.5 is amended by revising the definition of "Transfer, assignment, or sale of permit rights" to read as follows:

§ 701.5 Definitions.

* * * * *

Transfer, assignment, or sale of permit rights means a substitution of the permittee listed in a permit to conduct surface coal mining operations issued by a regulatory authority.

* * * * *

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

3. The authority citation for part 773 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq., as amended; 16 U.S.C. 470 et seq.*, 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 469 *et seq.*, 16 U.S.C. 470aa *et seq.*, and Pub. L. 100–34.

4. Section 773.5 is revised to read as follows:

§ 773.5 Definitions.

For purposes of this subchapter.

Owned or controlled and owns or controls mean any one or a combination of the relationship specified in paragraphs (a) and (b) of this definition—

(a) With regard to an entity—

(1) (i) Based on instruments of ownership or voting securities, owning of record in excess of 50 percent of the entity; or

(ii) Having any other relationship which gives a person authority directly or indirectly to determine the manner in which the entity conducts surface coal mining operations.

(2) The following relationships are presumed to constitute ownership or control unless a person can demonstrate that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the entity conducts surface coal mining operations.

(i) Being an officer, director, or general partner of the entity;

(ii) Having the ability to commit the financial or real property assets or working resources of the entity; or

(iii) Based on instruments of ownership or voting securities, owning of record 10 through 50 percent of an entity.

(3) For purposes of computing the percentage of ownership under paragraphs (a)(1)(i) and (a)(2)(iii) of this definition in situations involving two or more levels of ownership of an entity, the percentages of ownership at the various levels shall be multiplied to determine the percentage of ownership which any remote owner has in the entity. For example, a 45 percent owner of a 20 percent owner of an applicant will be considered to own a 9 percent interest in the applicant (.45 × .20 = .09).

(b) With regard to a surface coal mining operation—

(1) (i) Being a permittee of the surface coal mining operation, with respect to any operations or activities conducted on the site;

(ii) Being the operator of a surface coal mining operation, with respect to any operations or activities conducted by such operator on the site; or

(iii) Having any other relationship which gives a person authority directly or indirectly to determine the manner in which the surface coal mining operation is conducted.

(2) Owning or controlling coal to be mined by another person under a lease, sublease, or contract and having the right to receive such coal after mining is presumed to constitute ownership or control of the surface coal mining operation unless a person can demonstrate that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the surface coal mining operation is conducted.

5. Section 773.17 is amended by revising paragraph (i) to read as follows:

§ 773.17 Permit conditions.

* * * * *

(i) Each permittee shall provide to the regulatory authority, consistent with the procedures in §§ 774.13, 774.17 and 774.18, information on any permittee or operator change.

6. Section 773.27 is added to read as follows:

§ 773.27 Periodic check of ownership or control information.

(a) At the first regularly scheduled inspection after the initial disturbance of a permitted site and annually thereafter until coal extraction on the site has been completed, the regulatory authority shall take the following steps to determine whether the information contained in the current official record of the permit concerning the permittee, the operator, and the MSHA identification number for the site was and remains complete and accurate:

(1) An on-site inquiry; and

(2) A check of MSHA and Abandoned Mine Land information, as available through AVS.

(b) If, as a result of the steps taken under paragraph (a) of this section, the regulatory authority identifies any potential omission, inaccuracy, or inconsistency in the information provided in the application, or a subsequent change to such information—

(1) The regulatory authority shall promptly contact the permittee and require that the matter be resolved expeditiously through one or more of the following actions:

(i) Submission of a satisfactory explanation which includes credible information sufficient to demonstrate that no actual omission, inaccuracy, or inconsistency existed at the time of permit issuance and that no subsequent change to such information has occurred;

(ii) Amendment to the current official record of the permit, where appropriate;

(iii) Remedial action under § 773.20(c) (or the State program equivalent) in situations where complete and accurate information would have precluded issuance of the permit under § 773.15(b); and

(iv) Enforcement action under §§ 843.11–.12 of this chapter (or the State program equivalent) requiring the cessation of operations by any unapproved permittee or operator and the submission of an application for an operator change under § 774.13 or for transfer, assignment, or sale of permit rights under § 774.17 of this chapter, or the State program equivalent.

(2) The regulatory authority shall also take action in accordance with the provisions of § 843.23 of this chapter, or the State program equivalent, where appropriate.

PART 774—REVISION; RENEWAL; AND TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS

7. The authority citation for part 774 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 et seq. as amended) and Pub. L. 100–34.

8. Section 774.13 is revised by the addition of new paragraph (e) to read as follows:

§ 774.13 Permit revisions.

* * * * *

(e) Request to change an operator on a permit. (1) General. Any changes to an operator on a permit shall be submitted for approval to the regulatory authority according to the following procedures.

(2) Application requirements. Any person seeking approval of a change in an operator on a permit issued by a regulatory authority shall—

(i) Provide the regulatory authority with an application for approval of an operator change, including

(A) the name and address of the permittee and permit number;

(B) the name and address of the proposed operator; and

(C) the legal, financial, compliance, and related information required by part 778 of this chapter for the proposed operator.

(D) In lieu of submitting information on ownership or control required by this section, or any portion thereof, an applicant may certify that the relevant information in AVS on the proposed new operator is complete and accurate as of the date of the certification.

(ii) Advertise the filing of the application in a newspaper of general circulation in the locality of the operation involved, indicating the name and address of the proposed operator, the geographic location of the operation involved, the permit number, and the address to which written comments may be sent.

(iii) Surface coal mining operations may be conducted by the proposed operator prior to the final approval of the regulatory authority when the following requirements have been met—

(A) The permittee has submitted to the regulatory authority a complete application for a change of operator; and

(B) the regulatory authority has determined by checking the information in the AVS that the proposed operator is eligible to receive a permit to conduct surface coal mining operations.

(3) Public participation. Any person having an interest which is or may be adversely affected by a decision on the change in operator, including an official of any Federal, State or local government agency, may submit written comments on the application to the regulatory authority within a time specified by the regulatory authority.

(4) Criteria for approval. The regulatory authority may approve the operator change if it finds that the new operator:

(i) Is eligible to receive a permit in accordance with § 773.15(b) and (c) of this chapter; and

(ii) Meets any other requirements of the regulatory authority.

(5) If the regulatory authority finds, during a routine inspection or through any other means, that an unapproved operator is operating on a site, the regulatory authority shall issue, under §§ 843.11 and 843.12 of this chapter or the State program equivalent, a notice of violation to the permittee and a cessation order to the operator, specifying that the operator may not conduct surface coal mining operations until the application requirements in paragraph (e)(2) of this section have been met.

(6) Within 30 days of its decision regarding any operator change, the regulatory authority shall enter the new operator information into AVS.

9. Section 774.17 is amended by revising paragraphs (a) and (f) and by adding paragraph (b)(1)(iv) to read as follows:

§ 774.17 Transfer, assignment, or sale of permit rights.

(a) *General.* No transfer, assignment, or sale of permit rights granted by a permit shall be made without the prior written approval of the regulatory authority. The regulatory authority shall conduct a complete inspection of the permit area within the 30 days prior to granting such approval.

(b) * * *

(1) * * *

(iv) In lieu of submitting information on ownership or control required by this section, or any portion thereof, an applicant may certify that the relevant information in AVS on the proposed new permittee is complete and accurate as of the date of the certification.

* * * * *

(f)(1) *Continued operation under existing permit.* The successor in interest shall assume the liability and reclamation responsibilities of the existing permit and shall conduct the surface coal mining and reclamation operations in full compliance with the Act, the regulatory program, and the terms and conditions of the existing permit, unless the applicant has obtained a new or revised permit as provided in this subchapter.

(2) An applicant who has not received final approval of a transfer, assignment, or sale of permit rights may be allowed to conduct surface coal mining operations under an existing permit, pending the final decision on the application for a transfer, assignment, or sale of permit rights, when all of the following conditions have been met:

(i) The applicant has submitted to the regulatory authority a complete application for transfer, assignment, or sale of permit rights in accordance with paragraph (a) of this section;

(ii) The regulatory authority has determined that adequate bond coverage and liability insurance will continue to exist with respect to the surface coal mining operation subject to the transfer, assignment, or sale of permit rights; and

(iii) The regulatory authority has determined by checking the information in the AVS that the proposed transferee, assignee or purchaser of the rights is eligible to succeed to mining rights under the permit.

10. Section 774.18 is added to read as follows:

§ 774.18 Changes in ownership or control information.

(a) *General.* Except for changes of permittees or operators, any changes, replacements or additions to the ownership or control of a surface coal mining operation or of an entity controlling such operation, as defined in § 773.5 of this chapter, shall be reported to OSM on a quarterly basis, within 30 days of the end of each calendar quarter. Entities operating in only one state shall also report any changes to the appropriate State regulatory authority.

(b) *Reporting requirements.* All persons reporting a change in ownership or control information shall

(1) Provide the legal, financial, and related information required by § 778.13 of this chapter for the new owners or controllers; and

(2) Specify which existing owners or controllers have been replaced, if any.

(c) OSM shall review the information to determine whether the new owners or controllers are eligible to receive a permit in accordance with § 773.15 (b) and (c) of this chapter, and shall immediately notify the entity when any such owner or controller is found to be ineligible due to a link to a violation or outstanding penalty or fee.

(d) The entity submitting the information and/or any owners or controllers found to be linked to a violation, unless bound by a prior administrative or judicial determination, may challenge the link to the violation by submitting, within 30 days, a written explanation of the basis for the challenge, along with any relevant evidentiary materials and supporting documents, to OSM, addressed to the Chief of the AVS Office, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, DC 20240. The Director or the Director's designee will make the final decision on behalf of the agency.

(e) OSM shall review any information submitted under paragraph (d) of this section and shall make a written decision whether or not the ownership or control link has been shown to be erroneous or has been rebutted.

(f) If, as a result of the decision reached under paragraph (e) of this section, OSM determines that the ownership or control link has not been shown to be erroneous and has not been rebutted, it shall so notify the entity and the owner or controller, and shall update the information in AVS promptly, if necessary. Notification shall be made in accordance with the provisions of 30 CFR 843.14.

(g) The applicant or other person may appeal OSM's decision to the Department of Interior's Office of Hearings and Appeals within 30 days of service of the decision in accordance with 43 CFR 4.1380, *et seq.* OSM's decision shall remain in effect during the pendency of the appeal, unless temporary relief is granted in accordance with 43 CFR 4.1386.

(h) When an application is pending or the entity has a surface coal mining operation under permit, OSM shall notify the regulatory authority which is considering the application or which has issued the permit.

(i) When an eligible owner or controller of an entity holding a permit to conduct surface coal mining operations has been identified the regulatory authority shall use one or more of the following remedial measures:

(1) Implement, with the cooperation of the permittee or other person responsible, and of the responsible agency, a plan for abatement of the violation or a schedule for payment of the penalty or fee;

(2) Impose on the permit a condition requiring that in a reasonable period of time the permittee or other person responsible abate the violation or pay the penalty or fee;

(3) Suspend the permit until the violation is abated or the penalty or fee is paid; or

(4) Rescind the permit under § 773.21 of this chapter.

PART 778—PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

11. The authority citation for part 778 continues to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 et seq), and Pub. L. 100–34.

12. Section 778.13 is amended by revising paragraphs (c) and (j) as follows:

§ 778.13 Identification of interests.

* * * * *

(c) For each person who owns or controls either the proposed surface coal mining operation or the application for a permit under the definition of "owned or controlled" and "owns or controls" in § 773.5 of this chapter, as applicable, except that information on persons specified in §§ 773.5(a)(1)(ii), (a)(2)(ii), and (b)(1)(iii) need not be provided.

* * * * *

(j) The applicant shall submit the information required by this section and by § 778.14 of this part in any prescribed OSM format that is issued. Applicants who have previously applied for permits and for whom relevant data resides in AVS may submit any and all information, or any portion thereof, required by this section by certifying to the regulatory authority that the information on AVS is complete, accurate, and up-to-date.

PART 843—FEDERAL ENFORCEMENT

13. The authority citation for part 843 continues to read as follows:

Authority: 30 U.S.C. 1201 et seq., as amended; and Pub. L. 100–34.

14. Section 843.23 is added to read as follows:

§ 843.23 Actions for knowing omissions or inaccuracies in ownership or control and violation information.

(a)(1) Whenever the Office identifies any material omission or inaccuracy in ownership or control or violation information provided in an application or other document submitted pursuant to §§ 773.22, 773.24, 773.25, 773.26, 773.27, 774.13, 774.17, 774.18, 778.13, or 778.14 of this chapter, it shall determine whether the omission or inaccuracy resulted from a knowing failure to provide complete and accurate information, including:

(i) Any knowing submission of false information, and

(ii) Any failure by a person to provide complete and accurate information where the person knew or had reason to know that such failure could mislead the Office as to the facts of ownership or control relevant to a surface coal mining operation or the status of any violation.

(2) The knowing failure to provide complete and accurate information is a violation of the Act.

(b)(1) If the Office determines, pursuant to paragraph (a) of this section, that a failure to provide complete and accurate information was knowing, the Office shall promptly consider one or more of the following actions:

(i) Denial of the permit for failure to comply with § 773.15(c)(1) of this chapter;

(ii) Issuance of a notice of violation, along with assessment of an appropriate civil penalty; and

(iii) Criminal prosecution under 30 U.S.C. 1268(g).

(2) Such actions shall be in addition to any action taken under § 773.27(b)(1)(iii) and (iv) of this chapter, if applicable.

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Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary

Funding Availability for FY 1993; Invitation for Applications: Public Housing Development; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Public and Indian Housing

[Docket No. N-93-3633; FR-3442-N-01]

Notice of Funding Availability for FY 1993; Invitation for Applications: Public Housing Development

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1993 for public housing development; invitation for applications.

SUMMARY: This NOFA announces the availability of FY 1993 funding, and invites eligible public housing agencies (PHAs) to submit applications for public housing development. Applications are limited to:

(1) Replacements for demolition/disposition subject to section 18 of the United States Housing Act of 1937 (USHA);

(2) Replacements for homeownership transfers under the HOPE I Program;

(3) Replacements for homeownership sales under section 5(h) of the USHA;

(4) Units required by litigation settlements; and

(5) "Other" applications.

All successful applicants will be required to participate in the Family Self-Sufficiency (FSS) program, unless granted an exception. This NOFA also provides instructions regarding the preparation and processing of applications. This NOFA is not applicable to the Indian housing program.

DATES: Applications are due at the HUD Field Office on or before 4 p.m., local time, on August 12, 1993. See Section III of this NOFA for further information on application submission. If an application is mailed to the Field Office, the PHA must clearly write "PUBLIC HOUSING DEVELOPMENT APPLICATION" on the outside of the envelope and obtain a return receipt indicating the date and time of delivery.

The application deadline is firm as to *date and hour.* In the interest of fairness to all applicants, HUD will not consider any application that is received after the deadline. PHAs should take this into account and submit applications as early as possible to avoid risk brought about by unanticipated delays or delivery-related problems. In particular, PHAs intending to mail applications must provide sufficient time to permit delivery on or before the deadline date. Acceptance by a Post Office or private mailer does not constitute delivery. Facsimile (Fax), COD, and postage due applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: Janice Rattley, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4136, Washington, DC 20410. Telephone (202) 708-1800 (voice) or (202) 708-4594 (TDD). (These are not toll-free numbers.).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the OMB under the Paperwork Reduction Act of 1980 and have been assigned OMB control numbers 2577-0033, 2577-0036, and 2577-0044.

I. Introduction

A. Authority

Sections 5 and 23 of the United States Housing Act of 1937 (42 U.S.C. 1437c and 1437u); and sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Public housing development regulations are published at 24 CFR part 941; demolition/disposition regulations are published at 24 CFR part 970; section 5(h) regulations are published at 24 CFR part 906. The interim and final regulations for the public housing FSS program were published on May 27, 1993, at 58 FR 30858, and 58 FR 30906, respectively, and will be codified at 24 CFR part 962. (The FSS final rule simply adopts the FSS interim rule as the FSS final regulations.) The Notice of Program Guidelines for the HOPE-1 program was published on January 14, 1992 at 57 FR 1522. The Catalog of Federal Domestic Assistance Program number is 14.850.

B. Fund Availability

The FY 1993 VA-Housing and Urban Development-Independent Agencies Appropriation Act (Pub. L. 102-389, approved October 6, 1992) makes available $400 million of budget authority (grants) for public housing development under section 5(a)(2) of the USHA. Since some of the appropriated funds are to be derived from the recapture of prior year obligations, the appropriated funds have been reduced by $11,155,481, leaving a balance of $388,844,519 currently available for allocation. If recaptures of funds within the Annual Contributions account occur during the fiscal year, these amounts will be made available for allocation to Public Housing Development up to the fully appropriated amount.

In accordance with section 624 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992) (HCD Act of 1992), HUD has established a set-aside of $20,000,000 for the development of housing designated for disabled families. This reduction, partially offset by the addition of $1,614,675 in carryover funds, leaves a balance of $370,459,194 available under this NOFA. The use of funds for replacement housing subject to section 18 of the USHA is limited to 30 percent of the amount appropriated for development, or $116,655,000 at this time. (The availability of the $20 million for public housing for disabled families will be announced in a separate NOFA.)

C. Fund Assignments

Section 213(d) of the Housing and Community Development Act of 1974 (HCD Act of 1974) requires that funds be allocated on a fair share basis, except for (a) amounts retained in a Headquarters Reserve for litigation settlements, and (b) appropriations determined incapable of geographic allocation.

1. A minimum of $100 million will be fair shared for Regional Administrators to approve "other" applications. Threshold-approvable applications relating to litigation settlements involving a lack of assisted housing or minority housing opportunities shall be assigned Headquarters Reserve funding before the allocations are determined. Up to $116,655,000 will be made available for applications for replacement housing subject to section 18 of the USHA. Remaining funds will be made available for approvable applications for replacement units for HOPE 1 or section 5(h) homeownership transfers or sales. Any remaining funds not reserved for HOPE 1 or section 5(h) applications will be added to the $100 million to be fair shared for "other" approvable applications.

2. Fair share funds will be distributed to HUD Regional Offices on the basis of the following fair share factors, which reflect the most recent decennial census data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other measurable conditions. Any unused Regional assignments will be redistributed, proportional to need, among remaining regions with approvable unfunded "other" applications. Fair share and Headquarters Reserve funds are also subject to the requirement of section 213 of the HCD Act of 1974 that not less than 20 percent nor more than 25

percent of the HUD aggregate program funds covered by the statute be allocated for use in nonmetropolitan areas. Therefore, public housing development fund allocations to select "other" applications may be modified before assignments to the Regions to achieve compliance with this statutory and regulatory requirement (see 24 CFR 791.403(a)).

Region	Fair-share factors (percentages)
I Boston	7.2
II New York	18.3
III Philadelphia	9.4
IV Atlanta	13.8
V Chicago	15.1
VI Ft. Worth	7.7
VII Kansas City	3.6
VIII Denver	2.5
IX San Francisco	18.7
X Seattle	3.7
Total	100.0

D. Conformity to Regulations and NOFA Requirements

While conformity with 24 CFR part 941 is required, this funding effort is also subject to the additional specific requirements, consistent with the regulations, that are set forth in this NOFA. Applicants also should consult Handbook 7417.1 REV–1, the FY 1993 detailed Processing Notice, and the FSS interim and final regulations published on May 27, 1993 at 58 FR 30858 and 58 FR 30906, respectively, and which will be codified at 24 CFR part 962. Regional Offices may not authorize any selection criteria in addition to the criteria set out in the NOFA.

II. Application Process Overview

A. Categories of Applications

Each application must specify the housing type (new construction, rehabilitation, or acquisition), development method (conventional, turnkey, or acquisition), and community for which the project is proposed. No more than one housing type, development method, and community may be proposed for an application. While a PHA may file multiple applications, each application must be for only one of the following specific categories:

1. Replacement units for demolition/ disposition approvals, subject to section 18 of the USHA;

2. Replacement units for HOPE 1 or section 5(h) homeownership transfers or sales;

3. Public housing required by litigation settlements (involving a lack of assisted or minority housing opportunities); or

4. "Other" development applications intended to increase the public housing stock.

B. Application Processing

The Field Office will screen each application for completeness and will provide the PHA a 14-day opportunity to furnish missing technical information or exhibits, or to correct technical mistakes. Each application will then be subjected to a "pass/fail" threshold examination. Each passing application will be recommended for funding (categories 1, 2, and 3) or rated and ranked (category 4). Regional Offices will verify Field Office actions and will select category 4 applications for approval based on Field Office ratings. Headquarters will determine the funds required to approve category 1, 2, and 3 applications.

C. Application Approval

1. A minimum of $100 million will be fair shared for Regional Administrators to approve (in rank order) category 4 applications.

2. All category 3 approvable applications and up to $116,655,000 for category 1 applications will be funded.

3. Remaining funds will be made available for approvable category 2 applications. Any remaining funds not reserved for category 2 applications will be added to the $100 million to be fair shared for category 4 applications.

D. Disclosure of Information

The Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) prohibits advance disclosure of funding decisions. (See 24 CFR part 4, and the interim rule amending 24 CFR part 4, published on August 4, 1992, 57 FR 34246.) Civil penalties related to advance disclosure are set out in 24 CFR part 30. Application approval/non-approval notifications shall not occur until the congressional notification process is completed.

E. Records Retention

Applications and materials related to applications (e.g., application scoring sheets, and notifications of selection/ non-selection) will be retained in the appropriate Field Office for five years, and be available for public inspection in accordance with 24 CFR part 12.

III. Application Requirements

A. All Applicants

Each application shall consist of an original and two copies, and must include the following:

1. *Cover Letter.* The cover letter must identify the category of application (see Section II.A of this NOFA for a description of the categories; see also subparagraph 6 of this Section III.A of the NOFA).

2. *Application—Form HUD 52470.* The application must be signed and dated and include the information as specified in the form.

3. *Evidence of Legal Eligibility.* The PHA must document that it is legally organized, and must provide a current General Certificate (Form HUD 9009).

4. *Cooperation Agreement (Form HUD 52481).* The PHA must document that the number of units requested, along with units in management and other units in development, are covered by Cooperation Agreements.

5. *PHA Resolution In Support of the Application (Form HUD–52471).* Under this resolution, the PHA agrees to comply with all requirements of 24 CFR part 941 (see also subparagraph 6 of this Section III.A).

6. *Front-end Funds.* If front-end funds are being requested, the PHA must so state in its cover letter. If the PHA desires the project only if front-end funds can be approved, the PHA must so state. The Form HUD–52471 (PHA Resolution) must refer to the request, and include Form HUD–52472 (Local Governing Body Resolution/ Transcript of Proceedings) approving the request.

7. *Drug-Free Workplace.* The PHA must submit the Certification for a Drug-Free Workplace (Form HUD–50070) in accordance with 24 CFR 24.630.

8. *Certification for Contracts, Grants, Loans and Cooperative Agreements (Form HUD–50071).* In accordance with section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the regulations at 24 CFR part 87, the PHA must certify that no federally appropriated funds have been paid or will be paid, by or on behalf of the PHA for influencing or attempting to influence an officer or employee of any agency, or a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modifications of any Federal contract, grant, loan, or cooperative agreement.

9. *Form SF–LLL, Disclosure of Lobbying Activities.* Also, in accordance with the Byrd Amendment and the regulations at 24 CFR part 87, the PHA must complete and submit Form SF–LLL if funds other than federally appropriated funds have been paid or

will be paid by or on behalf of the PHA for influencing or attempting to influence an officer or employee of any agency, or a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modifications of any Federal contract, grant, loan, or cooperative agreement.

10. *Disclosure of Government Assistance and Identity of Interested Parties (Form HUD 2880).* The PHA must submit the Applicant/Recipient Disclosure/Update Report (Form HUD–2880) in accordance with the requirements of 24 CFR part 12, subpart C.

11. *Applications for New Construction.* Every application for a new construction project (conventional or turnkey) must be accompanied by either the information described in paragraphs 11.a. and 11.c., or, at the applicant's option, the information described in paragraphs 11.b. and 11.c.:

a. A PHA comparison of the costs of new construction (in the neighborhood where the PHA proposes to construct the housing) and the costs of acquisition of existing housing or rehabilitation in the same neighborhood (including estimated costs of lead-based paint testing and abatement); or

b. A PHA certification, accompanied by supporting documentation, that there is insufficient existing housing in the neighborhood to develop housing through acquisition of existing housing or rehabilitation;

c. A statement that either:

(1) Although the application is for new construction, the PHA will accept acquisition of existing housing or rehabilitation, if HUD determines the PHA cost comparison or certification of insufficient housing does not support approval of new construction; or

(2) The application is for new construction only. (In any such case, if HUD cannot approve new construction under section 6(h) of the USHA, the application will be rejected.)

12. *Family Self-Sufficiency (FSS).* Section 23 of the USHA requires PHAs that are awarded new public housing units to implement an FSS program. Applicants must certify that they will comply with 24 CFR part 962.

B. Replacement Housing Applications

1. *Cover Letter.* For both category 1 and category 2 applications, the cover letter must state whether the underlying application (to demolish/dispose of units, or to transfer/sell units) has been approved; the date of approval; the project number and the name of the project being replaced; and whether it is being replaced in whole or in part. If the underlying application was not approved at the time the replacement housing application is filed, the cover letter must state the date the underlying application was submitted for consideration.

2. *Section 5(j) Certification.* The PHA must certify that the units requested are specifically required in FY 1993 either to meet the one-for-one replacement requirement of section 18 of the USHA to replace public housing demolition/disposition; or to meet the requirements of section 304(g) of the USHA to replace existing public housing approved in FY 1993 for homeownership transfer under HOPE 1, or for sale under section 5(h).

3. *Replacement Application Under Section 18.* A PHA submitting a replacement housing application under section 18 (category 1) must demonstrate that the replacement units, alone or together with other identified replacement units:

a. Will implement the PHA's Replacement Housing Plan submitted under 24 CFR 970.11;

b. Are for no fewer units than the number of units to be demolished or disposed of; and

c. Will house at least the same number of individuals and families that could be served by the housing to be demolished or disposed.

C. Applications for Units Required for Litigation Settlement

1. *Cover Letter.* A PHA submitting a category 3 application shall identify the litigation in its cover letter.

2. *Section 5(j) Certification.* The PHA must certify that the units requested are required by litigation settlements involving a lack of assisted or minority housing opportunities.

D. "Other" Applications

1. *Cover Letter.* Applicants for "other" public housing development units (category 4), must state whether they will accept fewer units than applied for. Refusal to accept fewer units may result in an application not being selected if funds are not sufficient for the full number of units.

2. *Section 5(j) Certification.* The PHA must certify to one of the following, pursuant to section 5(j) of the USHA, for each "other" application:

a. The units requested (limited to 100 or fewer) are needed for family housing to satisfy demands not being met by the section 8 existing or voucher rental assistance programs;

or

b. That 85 percent of the PHA's dwelling units (select (1), (2), or (3)):

(1) Are maintained in substantial compliance with the section 8 housing quality standards (24 CFR 882.109); or

(2) Will be so maintained upon completion of modernization for which funding has been awarded; or

(3) Will be so maintained upon completion of modernization for which applications are pending that have been submitted in good faith under section 14 of the USHA (or a comparable State or local government program), and that there is a reasonable expectation, as determined in writing by HUD, that such application would be approvable; or will be so maintained upon completion of modernization for which a Comprehensive Plan has been approved under the Comprehensive Grant program.

3. *Funding Preference in Accordance With Section 6(p).* Section 6(p) of the USHA requires HUD to provide a funding preference for applications in areas with an inadequate supply of housing for use by low-income families (i.e., a "tight" housing rental market). The implementation of this preference shall be in accordance with the process described in Section V.A. of this NOFA.

a. The PHA must furnish data relative to rental vacancy rates in the market area where the project is proposed. This data should include a description of the data sources and methods used to obtain survey information. (It is recommended that PHAs consult with local community development agencies relative to their housing needs before submitting applications under this NOFA, since most of these agencies will have participated in the development of a Comprehensive Housing Affordability Strategy (CHAS).)

b. Factors such as the following will provide evidence of conditions which, when taken together, will demonstrate a pattern of inadequate supply (generally, no one factor, taken alone, is conclusive);

(1) The current rental housing vacancy rate is at a low level (typically six percent or lower) which results in housing not being available for families seeking rental units (unless the housing market area is not growing and, as a result, is experiencing low levels of demand);

(2) The annual production of rental housing units is insufficient to meet the demand arising from the increase in households, or, where there is little or no growth, is insufficient to meet the demand arising from net losses to the available inventory;

(3) The shortage of housing is resulting in rent increases exceeding

those increases commensurate with rental housing operating costs; and

(4) A significant number or proportion of section 8 certificate/voucher holders are unable to find adequate housing because of the shortage of rental housing, as evidenced by PHA data showing a lower-than-average percentage of units under lease and a longer-than-average time required to find units (typically, less than 85 percent lease up within 60 days).

4. *Documentation to Demonstrate Need.* The PHA must submit documentation, such as waiting list description or PHA vacancy rate data, to demonstrate need for the proposed public housing, to assist the HUD Field Office in its determination concerning relative need.

5. *Other Criteria.* Additional rating points may be earned by category 4 applicants in accordance with Section IV.D.1.h of this NOFA.

E. Ineligible Applications

Applications for intermediate care facilities and nursing homes may not be approved under this NOFA. Applications for housing designated for disabled families will be the subject of a separate NOFA and may not be applied for under this NOFA.

IV. Field Office Processing of Applications

A. Initial Screening

1. Immediately after the deadline for receipt of applications, the Field Office will screen each application to determine whether all information and exhibits have been submitted.

a. If an application lacks any technical information or exhibit, or contains a technical mistake, the PHA will be advised in writing and will have 14 calendar days from the date of the issuance of HUD's notification to deliver the missing or corrected information or documentation to the Field Office.

b. Curable technical deficiencies relate only to items that would not improve the substantive quality of the application, relative to the ranking factors.

c. If Form HUD 52470 (Application) is missing, the PHA's application will be considered substantively incomplete, and therefore ineligible for further processing. If Form HUD 50070 (Drug Free Workplace Certification) is missing, or if there is a technical mistake, such as no signature on a submitted form, the PHA will be given an opportunity to correct the deficiency.

2. An application that does not meet the applicable threshold and NOFA requirements after the 14-day technical deficiency period will be rejected from processing and determined to be unapprovable.

3. Applications proposing housing in areas also served by the Farmers Home Administration (FmHA) are subject to coordination with FmHA to assure that assisted housing resources to be provided are not duplicative. The State FmHA office shall be advised that an application for public housing has been received and is being considered for funding, and be provided an opportunity to comment on the application.

4. The responsibility for submitting a complete application rests with the PHA. The failure of the Field Office to identify and provide a notice of deficiency to the PHA shall not relieve the PHA of the consequences of failure to submit a complete application.

B. Application Threshold Approvability

After initial screening and upon expiration of the deficiency "cure" period, complete applications will be examined for threshold approvability. Applications that fail one or more of the threshold criteria will be rejected from processing and determined to be unapprovable. All applications for public housing development funds must meet the following thresholds to be determined approvable:

1. The PHA may not have any litigation pending which would preclude approval of the application. The PHA must be legally eligible to develop, own, and operate public housing under the USHA and have:

a. Approved and current PHA organization documents;

b. Local cooperation agreements to cover units under management, in development, and the units requested (Form HUD 52481), and any other required local authority;

c. A properly executed and complete PHA Resolution (Form HUD 52471), referring to the need for front-end funding, if requested, and a Local Governing Body Resolution (HUD 52472) which approves the request for front-end funds, if front-end funds are requested. NOTE: The PHA Resolution certifies to the PHA's intent to comply with all requirements of 24 CFR part 941 (these requirements include: Nondiscrimination under the applicable civil rights laws; the requirements imposed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655); the accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD's implementing regulations at 24 CFR part 8; and section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), and HUD's implementing regulations at 24 CFR part 135.

2. The category of application is eligible under this NOFA (see Section II.A of this NOFA).

3. If new construction (conventional or turnkey) has been applied for, the PHA has provided a cost comparison or a certification with documentation (see Section III.A.11 of this NOFA), and has stated what is to be done with the application if new construction is not approvable.

4. For "other" applications, the Field Office must determine that there is a need and a market for the proposed household type and bedroom sizes, taking into consideration the documentation submitted by the PHA on housing supply and demonstration of need, any local plans, and other assisted housing (e.g., HUD or FmHA) existing and proposed (including housing funded but not completed).

5. The Field Office must determine that the PHA has or will have the capability to develop and manage the proposed housing. The Field Office shall determine capability based upon the PHA's overall capability; the PHA's total score under the Public Housing Management Assessment Program (PHMAP) (see 24 CFR part 901); the PHA's most recent fiscal audit; and outstanding HUD monitoring findings.

a. A PHA that has been designated as "troubled" shall be considered eligible if its most recent PHMAP assessment improved by at least 5 points (on a zero-to-one hundred point scale) as compared to the assessment completed on April 16, 1992; or it can demonstrate to the satisfaction of the Field Office that it is making substantial progress by a narrative describing actions that have been taken to address deficiencies identified by PHMAP, by the PHA's Memorandum of Agreement with HUD, or by HUD reviews, audits or surveys; or it provides an acceptable binding contract from another public or private entity to act as administrator of the development program on behalf of the PHA.

b. A PHA shall not be determined to lack administrative or development capability simply because it has no recent experience in developing or managing public/assisted housing.

c. No application shall be determined to be approvable if the PHA has failed to return excess advances received during development or modernization, or amounts determined by HUD to constitute excess financing based on a HUD-approved Actual Development

Cost Certificate (ADCC) or Actual Modernization Cost Certificate (AMCC), unless HUD has approved a pay-back plan.

6. There are no environmental factors, such as sewer moratoriums, precluding development in the requested locality.

7. The following certifications are included in the application and have been executed by the appropriate person(s):

a. Form HUD–50070, Drug-Free Workplace;

b. Form HUD–50071, Certification for Contracts, Grants, Loans and Cooperative Agreements;

c. Form SF–LLL, Disclosure of Lobbying Activities, if applicable;

d. Form HUD–2880, Applicant/Recipient Disclosure/Update Report;

e. FSS certification;

f. Section 5(j) certification appropriate to the category of application.

C. Non-Fair Share Threshold Approvable Applications

Applications in categories 1, 2, and 3 will be determined approvable if they successfully pass the threshold review. Threshold-approvable applications in category 4 ("other") will be rated by the Field Office, using the criteria set out in the following Section D.

D. "Other" Development Applications

1. Rating criteria. Threshold approvable "Other" applications will be rated by the Field Office on the following criteria:

Criteria	Points
a. *Relative Need.* The application proposes a project for a locality which has been previously under-funded for the household type (family or elderly) requested, relative to the need for housing for the same household type in other localities in the respective metropolitan or non-metropolitan portion of the Field Office's jurisdiction	10
b. *Large-Family Housing.* The application is for a project comprising 51 percent or more three bedroom or larger units	20
c. *Relocation.* The proposed project would primarily assist households displaced or to be displaced by Federal action or a natural disaster in a federally declared disaster area	10
d. *Low Density Family Housing.* The application proposes scattered site development to expand housing opportunities	10
e. *PHA Development Experience.* (Select (1), (2), or (3).) (1) The PHA scored at least 90 percent ("A") in Indicator #12 (Development) of PHMAP	20
(2) The PHA's latest PHMAP score for Indicator #12 (Development) is between 80 and 89 percent, or the Field Office has no information on the PHA's previous development experience to rate the PHA under paragraph (a) above; however, the PHA's application demonstrates the capability for, and the expectation of, expeditious quality development (e.g., the PHA showed evidence of section 8 or other development experience, or submitted a development management contract with an experienced PHA)	15
or	
(3) The PHA's latest PHMAP score for Indicator #12 (Development) is between 60 and 79 percent, or the Field Office has no information on the PHA's development experience under either paragraph (1) or (2) above, but the PHA has evidenced staff capability and organization that demonstrates the PHA has the capability for, and the expectation of, expeditious quality development	5
f. *PHA Management Experience.* (Select (1), (2), or (3).) (1) The vacancy rate in public housing projects under management is not greater than 5 percent, indicating that the PHA will and can fully utilize the units applied for	20
or	
(2) The vacancy rate in public housing projects under management is not greater than 6 percent or two units (if that is greater)	10
or	
(3) The PHA has no public housing in management, but has management experience in the section 8 program and management reviews or Inspector General audit findings (if any) are being addressed satisfactory	5
g. *Other Criteria.* (Select any that apply.) (1) The PHA has submitted evidence that, for the past five years, it has met any commitments made under the provisions of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C., 1701u), as amended from time to time, and the implementing regulations for section 3 at 24 CFR part 135. If the PHA does not have five years of development experience, it may instead submit evidence related to its experience with the modernization program	5
(2) The application proposes a project which, as evidenced by a letter from local officials, actively supports an area of local initiative such as a Community Development Block Grant, urban revitalization, Enterprise Zone, or other similar local activity	5
(3) The Field Office, based on documentation submitted by the PHA, has determined that the PHA has no drug problem or is aggressively combatting drug abuse in its public housing projects	5
Total Possible Points	105

E. Field Office Reports to Region

1. *General.* All reports to the Regional Office of threshold-approvable applications shall include the project number, total number of units and units by bedroom size, structure type(s), cost areas, funding required and the metropolitan/non-metropolitan designations for each application. The "Other" list shall include the rating assigned each application.

2. *Category 1, 2, and 3 Applications.* Each Field Office shall forward its lists (by category) of fair-share exempt threshold-approvable applications to the Regional Office within two weeks of the deficiency "cure" period.

3. *Category 4 Applications.* "Other" applications that have met the threshold criteria of Section IV.B of this NOFA shall be rated and reported to the Regional Office by the Region's required date.

V. Regional Office Processing

A. All Applications

Regional Offices will ensure that all applications have been properly determined to be threshold-approvable and will forward separate lists of category 1, 2, and 3 approvable applications to Headquarters. Regional Offices will separate "other" applications (category 4) on the basis of "tight rental housing market" and Field Office ratings, and approve them (in the following order) to the extent fair share funds are assigned:

1. Applications in tight rental housing markets which receive 80 or more rating points;

2. Applications in other rental housing markets which receive 80 or more rating points;

3. Applications in tight rental housing markets which receive fewer than 80 rating points;

4. Applications in other rental housing markets which receive fewer than 80 rating points.

B. Reservation of Funds

Funds will be reserved in an amount equal to the total development cost limit for the number, structure type, and size of units being approved, "trended" to take into consideration the anticipated cost of construction at the time the construction/rehabilitation contract is expected to be executed. Acquisition reservations will be trended to take into account anticipated cost variations between fund reservation and Date of Full Availability (DOFA). The trend shall be calculated by multiplying the total development cost limit by 5.4 percent (1.054), rounded to the nearest $50.

C. Partial Funding

Partial funding of highly ranked "other" applications is authorized (so long as such projects are determined viable and the PHA has indicated willingness to accept fewer units) to facilitate the funding in rank order of additional applications for highly ranked projects.

VI. Checklist of Application Submission Requirements—All Programs

A. PHAs may use the following application checklist, which enumerates the submission requirements of Section III of this NOFA.

1. Form HUD 52470, Application for Public Housing Development;

2. Evidence of legal eligibility with a current General Certificate (HUD 9009);

3. Evidence that the number of units in management, in development, and being requested in this application are covered by Cooperation Agreements (HUD 52481) and any other State/local requirements have been met;

4. HUD 52471, PHA Resolution in Support of Public Housing;

5. HUD 52472, Local Governing Body Resolution, if front-end funds are being requested by the PHA. (Note: If front-end funds are requested, the HUD 52471 must be appropriately modified. See Section II.A.6. of this NOFA);

6. PHA statement identifying its funding preferences if more than one application is being submitted for category 4 (section (II.A.);

7. PHA statement whether it will accept fewer "other" units than applied for (category 4);

8. HUD 50070, PHA Certification for a Drug-Free Workplace;

9. HUD–50071, Certification for Contracts, Grants, Loans and Cooperative Agreements;

10. Form SF–LLL, Byrd Amendment Disclosure and Certification Regarding Lobbying, only if the applicant determines it is applicable;

11. Form HUD 2880, Disclosure of Government Assistance and Identity of Interested Parties;

12. Section 5(j) certification appropriate to the category of application;

13. Evidence of inadequate housing supply (i.e., a "tight" rental housing market), for category 4 ("Other") units;

14. Evidence (such as waiting list information or PHA vacancy rate data) of relative need for the units requested for category 4 applications;

15. Section 6(h) cost comparison justification, if new construction is requested;

16. FSS program certification;

17. Replacement housing exhibits, if applicable (see section III.B).

B. Application Packets

Forms comprising the application package may be obtained from the HUD Field Office.

VII. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410.

B. Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities between them and other levels of government. The NOFA will provide PHAs with funding for public housing development.

C. Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. To the extent that the funding provided through this NOFA results in additional or improved housing, the effects on the family will be beneficial.

D. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. (See Section II of this NOFA.) These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

E. Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

HUD's regulation implementing section 13 is codified at 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule. Appendix A of this rule contains examples of activities covered by this rule.

Any questions concerning the rule should be directed to the Office of

Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815 (voice/TDD). This is not a toll-free number. Forms necessary for compliance with the rule may be obtained from the local HUD office.

F. Prohibition Against Advance Information on Funding Decisions

Section 103 of the HUD Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing section 103 is codified at 24 CFR part 4, and was recently amended by an interim rule published in the **Federal Register** on August 4, 1992 (57 FR 34246). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (voice/TDD). (This is not a toll-free number.)

G. Accountability in the Provision of HUD Assistance

HUD's regulations at 24 CFR part 12 implement section 102 of the HUD Reform Act. Section 102 contains a number of provisions designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. The following requirements concerning documentation and public access disclosures are applicable to assistance awarded under this NOFA.

1. *Documentation and Public Access.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

2. *Disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in **Federal Register** on January 16, 1992 (52 FR 1942), for further information on these disclosure requirements.)

Dated: June 17, 1993.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 93–15101 Filed 6–25–93; 8:45 am]

BILLING CODE 4210–33–M

federal register

Monday
June 28, 1993

Part V

Federal Emergency Management Agency

Changes to the Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: July 28, 1993.

ADDRESSES: Comments on the master list or any changes to the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (fax) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Larry Maruskin, Office of Fire Prevention and Arson Control, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1141.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Tuesday, November 24, 1992, 57 FR 55314, and published changes five times previously.

Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list.

Each update contains or will contain three categories: "Additions;" "Corrections/changes;" and "Deletions." For the purposes of the updates, the three categories mean and include the following:

"Additions" are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

"Corrections/changes" are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

"Deletions" are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: June 23, 1993.

Spence W. Perry,

Acting General Counsel.

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST

06/16/93 UPDATE

Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
ADDITIONS					
Alabama					
Lenlock Inn		6210 McClellen Blvd	Anniston	AL 36201	2058201515
Econo Lodge		103 Greensprings Hwy	Birmingham	AL 35209	2059421263
Holiday Inn South Galleria Area.		1548 Montgomery Hwy	Birmingham	AL 35216	2058224350
Residence In by Marriott		3 Greenhill Pkwy	Birmingham	AL 35242	2059918686
Holiday Inn Downtown Historic Dist.		301 Government St	Mobile	AL 36602	2056490100
Inn South		4243 Inn South Ave	Montgomery	AL 36105	2052887999
Island House Hotel		26650 Perdido Beach Blvd.	Orange Beach	AL 36561	2059816100
Ramada Inn Limited		1418 Parkhill Pkwy	Pell City	AL 35125	2053381314
Arkansas					
Holiday Inn Arkadelphia		1–30 & Hwy. 7 & 67	Arkadelphia	AR 71923	5012465831
Arizona					
Holiday Inn City Center		181 W. Broadway Rd	Tucson	AZ 85701	6026248711
California					
Radisson Hotel San Diego.		1433 Camino Del Rio S	San Diego	CA 92708	6192600111
Massachusetts					
Susse Chalet Cambridge		211 Concord Tnpk	Cambridge	MA 02140	6176617800
Nebraska					
Embassy Suites Omaha		7270 Cedar St	Omaha	NE 68124	4023975141
Nevada					
Cal Neva Lodge Resort Hotel Spa & Casino.	PO Box 368	#2 Stateline Rd	Crystal Bay	NV 39402	7028324000
Circus Circus Towers		2880 Las Vegas Blvd. S	Las Vegas	NV 89109	7027340410

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST—Continued

06/16/93 UPDATE

Property name	PO Box/Rt No.	Street address	City	State/zip	Telephone
Circus Circus Manor		2880 Las Vegas Blvd. S .	Las Vegas	NV 89109	7027340410
Circus Circus Skyrise		2880 Las Vegas Blvd. S .	Las Vegas	NV 89109	7027340410
Circus Circus Hotel Casino.		500 N. Sierra St	Reno	NV 89503	7023290711
Circus Circus Hotel Casino.		516 West St	Reno	NV 89503	7023290711
New York					
Econo Lodge		1632 Central Ave	Albany	NY 12205	5184568811
Hojo Inn		5245 Camp Rd	Hamburg	NY 14075	7166482000
Econo Lodge		610 Upper Cornelia St	Plattsburgh	NY 12901	5185611500
Oregon					
Best Western Sunridge Inn.		One Sunridge Ln	Baker City	OR 97814	5035236444
The Greenwood Inn		10700 SW Allen Blvd	Beaverton	OR 97005	5036437444
Howard Johnson Lodge #1201.		1249 Tapadeka Ave	Ontario	OR 97914	5038898621
Red Lion Hotel Columbia River.		1401 N. Hayden Island Dr.	Portland	OR 97217	5032832111
South Carolina					
Days Inn Airport		1386 E. Main St	Ducan	SC 29334	8034331122
Comfort Inn	PO Box 5688	I–95 & US 52	Florence	SC 29502	8036654558
Econo Lodge	PO Box 5688	I–95 & US 52	Florence	SC 29502	8036658558
Sleep Inn	PO Box 5688	I–95 & US 52	Florence	SC 29502	8036628588
Residence Inn Spartanburg.		9011 Fairforest Rd	Spartanburg	SC 29305	8035763333
Wilson World		9027 Fairforest Rd	Spartanburg	SC 29301	8035742111
Econo Lodge #ΣΨ141		128 Interstate Dr. I–95 & US 78.	St. George	SC 29448	8035634027
Virginia					
Comfort Inn		12330 Jefferson Ave	Newport News	VA 23602	8042490200
CORRECTIONS/ CHANGES					
California					
Irvine Suites Hotel		23192 Lake Center Dr	El Toro	CA 92630	7143809888
South Carolina					
Radisson in Charleston Airport.		5991 Rivers Ave	North Charleston	SC 29418	8037442501
DELETIONS					
Mississippi					
Days Inn	PO Box 6518	US Hwy. 49	Hattiesburg	MS 39401	6015446360
Days Inn	PO Box 2355	Hwy. 80 W	Jackson	MS 39204	6019480680
Tupelo Executive Inn		1011 N. Gloster	Tupelo	MS 38801	6018412222
Ohio					
Marriott Inn		3663 Park East Dr	Beachwood	OH 44122	2162416375
Pennsylvania					
Holiday Inn		250 Market St	Johnstown	PA 15907	8145357777

[FR Doc. 93–15115 Filed 6–25–93; 8:45 am]
BILLING CODE 6718–26–U

Reader Aids

Federal Register

Vol. 58, No. 122

Monday, June 28, 1993

INFORMATION AND ASSISTANCE

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FEDERAL REGISTER PAGES AND DATES, JUNE

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List June 15, 1993

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $775.00 domestic, $193.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250-7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to (202) 512-2233.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-019-00001-1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101)	(869-019-00002-0)	17.00	[1] Jan. 1, 1993
4	(869-019-00003-8)	5.50	Jan. 1, 1993
5 Parts:			
1-699	(869-019-00004-6)	21.00	Jan. 1, 1993
700-1199	(869-019-00005-4)	17.00	Jan. 1, 1993
1200-End, 6 (6 Reserved)	(869-019-00006-2)	21.00	Jan. 1, 1993
7 Parts:			
0-26	(869-019-00007-1)	20.00	Jan. 1, 1993
27-45	(869-019-00008-9)	13.00	Jan. 1, 1993
46-51	(869-019-00009-7)	20.00	Jan. 1, 1993
52	(869-019-00010-1)	28.00	Jan. 1, 1993
53-209	(869-019-00011-9)	21.00	Jan. 1, 1993
210-299	(869-019-00012-7)	30.00	Jan. 1, 1993
300-399	(869-019-00013-5)	15.00	Jan. 1, 1993
400-699	(869-019-00014-3)	17.00	Jan. 1, 1993
700-899	(869-019-00015-1)	21.00	Jan. 1, 1993
900-999	(869-019-00016-0)	33.00	Jan. 1, 1993
1000-1059	(869-019-00017-8)	20.00	Jan. 1, 1993
1060-1119	(869-019-00018-6)	13.00	Jan. 1, 1993
1120-1199	(869-019-00019-4)	11.00	Jan. 1, 1993
1200-1499	(869-019-00020-8)	27.00	Jan. 1, 1993
1500-1899	(869-019-00021-6)	17.00	Jan. 1, 1993
1900-1939	(869-019-00022-4)	13.00	Jan. 1, 1993
1940-1949	(869-019-00023-2)	27.00	Jan. 1, 1993
1950-1999	(869-019-00024-1)	32.00	Jan. 1, 1993
2000-End	(869-019-00025-9)	12.00	Jan. 1, 1993
8	(869-019-00026-7)	20.00	Jan. 1, 1993
9 Parts:			
1-199	(869-019-00027-5)	27.00	Jan. 1, 1993
200-End	(869-019-00028-3)	21.00	Jan. 1, 1993
10 Parts:			
0-50	(869-019-00029-1)	29.00	Jan. 1, 1993
51-199	(869-019-00030-5)	21.00	Jan. 1, 1993
200-399	(869-019-00031-3)	15.00	Jan. 1, 1993
400-499	(869-019-00032-1)	20.00	Jan. 1, 1993
500-End	(869-019-00033-0)	33.00	Jan. 1, 1993
11	(869-017-00034-5)	12.00	Jan. 1, 1992
12 Parts:			
1-199	(869-019-00035-6)	11.00	Jan. 1, 1993
200-219	(869-019-00036-4)	15.00	Jan. 1, 1993
220-299	(869-019-00037-2)	26.00	Jan. 1, 1993
300-499	(869-019-00038-1)	21.00	Jan. 1, 1993
500-599	(869-019-00039-9)	19.00	Jan. 1, 1993
600-End	(869-019-00040-2)	28.00	Jan. 1, 1993
13	(869-019-00041-1)	28.00	Jan. 1, 1993
14 Parts:			
1-59	(869-019-00042-9)	29.00	Jan. 1, 1993
60-139	(869-019-00043-7)	26.00	Jan. 1, 1993
140-199	(869-019-00044-5)	12.00	Jan. 1, 1993
200-1199	(869-019-00045-3)	22.00	Jan. 1, 1993
1200-End	(869-019-00046-1)	16.00	Jan. 1, 1993
15 Parts:			
0-299	(869-019-00047-0)	14.00	Jan. 1, 1993
300-799	(869-019-00048-8)	25.00	Jan. 1, 1993
800-End	(869-019-00049-6)	19.00	Jan. 1, 1993
16 Parts:			
0-149	(869-019-00050-0)	7.00	Jan. 1, 1993
150-999	(869-019-00051-8)	17.00	Jan. 1, 1993
1000-End	(869-019-00052-6)	24.00	Jan. 1, 1993
17 Parts:			
1-199	(869-019-00054-2)	18.00	Apr. 1, 1993
200-239	(869-017-00055-8)	17.00	Apr. 1, 1992
240-End	(869-017-00056-6)	24.00	Apr. 1, 1992
18 Parts:			
1-149	(869-017-00057-4)	16.00	Apr. 1, 1992
150-279	(869-017-00058-2)	19.00	Apr. 1, 1992
280-399	(869-019-00059-3)	15.00	Apr. 1, 1993
400-End	(869-019-00060-7)	10.00	Apr. 1, 1993
19 Parts:			
1-199	(869-017-00061-2)	28.00	Apr. 1, 1992
200-End	(869-019-00062-3)	11.00	Apr. 1, 1993
20 Parts:			
1-399	(869-019-00063-1)	19.00	Apr. 1, 1993
400-499	(869-017-00064-7)	31.00	Apr. 1, 1992
500-End	(869-017-00065-5)	21.00	Apr. 1, 1992
21 Parts:			
1-99	(869-019-00066-6)	15.00	Apr. 1, 1993
100-169	(869-017-00067-1)	14.00	Apr. 1, 1992
170-199	(869-017-00068-0)	18.00	Apr. 1, 1992
200-299	(869-019-00069-1)	6.00	Apr. 1, 1993
300-499	(869-017-00070-1)	29.00	Apr. 1, 1992
500-599	(869-017-00071-0)	21.00	Apr. 1, 1992
600-799	(869-017-00072-8)	7.00	Apr. 1, 1992
800-1299	(869-017-00073-6)	18.00	Apr. 1, 1992
1300-End	(869-019-00074-7)	12.00	Apr. 1, 1993
22 Parts:			
1-299	(869-019-00075-5)	30.00	Apr. 1, 1993
300-End	(869-017-00076-1)	19.00	Apr. 1, 1992
23	(869-017-00077-9)	18.00	Apr. 1, 1992
24 Parts:			
0-199	(869-017-00078-7)	34.00	Apr. 1, 1992
200-499	(869-017-00079-5)	32.00	Apr. 1, 1992
500-699	(869-017-00080-9)	13.00	Apr. 1, 1992
700-1699	(869-017-00081-7)	34.00	Apr. 1, 1992
1700-End	(869-019-00082-8)	15.00	Apr. 1, 1993
25	(869-017-00083-3)	25.00	Apr. 1, 1992
26 Parts:			
§§ 1.0-1-1.60	(869-017-00084-1)	17.00	Apr. 1, 1992
§§ 1.61-1.169	(869-017-00085-0)	33.00	Apr. 1, 1992
*§§ 1.170-1.300	(869-019-00086-1)	23.00	Apr. 1, 1993
§§ 1.301-1.400	(869-017-00087-6)	17.00	Apr. 1, 1992
§§ 1.401-1.500	(869-017-00088-4)	38.00	Apr. 1, 1992
§§ 1.501-1.640	(869-017-00089-2)	19.00	Apr. 1, 1992
§§ 1.641-1.850	(869-017-00090-6)	19.00	Apr. 1, 1992
§§ 1.851-1.907	(869-017-00091-4)	23.00	Apr. 1, 1992
§§ 1.908-1.1000	(869-019-00093-3)	26.00	Apr. 1, 1993
§§ 1.1001-1.1400	(869-017-00093-1)	19.00	Apr. 1, 1992
*§§ 1.1401-End	(869-019-00095-0)	31.00	Apr. 1, 1993
2-29	(869-019-00096-8)	23.00	Apr. 1, 1993
30-39	(869-017-00096-5)	15.00	Apr. 1, 1992
40-49	(869-017-00097-3)	12.00	Apr. 1, 1992
50-299	(869-017-00098-1)	15.00	Apr. 1, 1992
300-499	(869-017-00100-0)	23.00	Apr. 1, 1993
500-599	(869-019-00101-8)	6.00	[4] Apr. 1, 1990
600-End	(869-017-00101-5)	6.50	Apr. 1, 1992

Title	Stock Number	Price	Revision Date
27 Parts:			
1-199	(869-017-00102-3)	34.00	Apr. 1, 1992
200-End	(869-019-00104-2)	11.00	[5] Apr. 1, 1991
28	(869-017-00104-0)	37.00	July 1, 1992
29 Parts:			
0-99	(869-017-00105-8)	19.00	July 1, 1992
100-499	(869-013-00106-6)	9.00	July 1, 1992
500-899	(869-017-00107-4)	32.00	July 1, 1992
900-1899	(869-017-00108-2)	16.00	July 1, 1992
1900-1910 (§§ 1901.1 to 1910.999)	(869-017-00109-1)	29.00	July 1, 1992
1910 (§§ 1910.1000 to end)	(869-017-00110-4)	16.00	July 1, 1992
1911-1925	(869-017-00111-2)	9.00	[6] July 1, 1989
1926	(869-017-00112-1)	14.00	July 1, 1992
1927-End	(869-017-00113-9)	30.00	July 1, 1992
30 Parts:			
1-199	(869-017-00114-7)	25.00	July 1, 1992
200-699	(869-017-00115-5)	19.00	July 1, 1992
700-End	(869-017-00116-3)	25.00	July 1, 1992
31 Parts:			
0-199	(869-017-00117-1)	17.00	July 1, 1992
200-End	(869-017-00118-0)	25.00	July 1, 1992
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-189	(869-017-00119-8)	30.00	July 1, 1992
190-399	(869-017-00120-1)	33.00	July 1, 1992
400-629	(869-017-00121-0)	29.00	July 1, 1992
630-699	(869-017-00122-8)	14.00	[7] July 1, 1991
700-799	(869-017-00123-6)	20.00	July 1, 1992
800-End	(869-017-00124-4)	20.00	July 1, 1992
33 Parts:			
1-124	(869-017-00125-2)	18.00	July 1, 1992
125-199	(869-017-00126-1)	21.00	July 1, 1992
200-End	(869-017-00127-9)	23.00	July 1, 1992
34 Parts:			
1-299	(869-017-00128-7)	27.00	July 1, 1992
300-399	(869-017-00129-5)	19.00	July 1, 1992
400-End	(869-017-00130-9)	32.00	July 1, 1992
35	(869-017-00131-7)	12.00	July 1, 1992
36 Parts:			
1-199	(869-017-00132-5)	15.00	July 1, 1992
200-End	(869-017-00133-3)	32.00	July 1, 1992
37	(869-017-00134-1)	17.00	July 1, 1992
38 Parts:			
0-17	(869-017-00135-0)	28.00	Sept 1, 1992
18-End	(869-017-00136-8)	28.00	Sept. 1, 1992
39	(869-017-00137-6)	16.00	July 1, 1992
40 Parts:			
1-51	(869-017-00138-4)	31.00	July 1, 1992
52	(869-017-00139-2)	33.00	July 1, 1992
53-60	(869-017-00140-6)	36.00	July 1, 1992
61-80	(869-017-00141-4)	16.00	July 1, 1992
81-85	(869-017-00142-2)	17.00	July 1, 1992
86-99	(869-017-00143-1)	33.00	July 1, 1992
100-149	(869-017-00144-9)	34.00	July 1, 1992
150-189	(869-017-00145-7)	21.00	July 1, 1992
190-259	(869-017-00146-5)	16.00	July 1, 1992
260-299	(869-017-00147-3)	36.00	July 1, 1992
300-399	(869-017-00148-1)	15.00	July 1, 1992
400-424	(869-017-00149-0)	26.00	July 1, 1992
425-699	(869-017-00150-3)	26.00	July 1, 1992
700-789	(869-017-00151-1)	23.00	July 1, 1992
790-End	(869-017-00152-0)	25.00	July 1, 1992
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-017-00153-8)	9.50	July 1, 1992
101	(869-017-00154-6)	28.00	July 1, 1992
102-200	(869-017-00155-4)	11.00	[7] July 1, 1991
201-End	(869-017-00156-2)	11.00	July 1, 1992
42 Parts:			
1-399	(869-017-00157-1)	23.00	Oct. 1, 1992
400-429	(869-017-00158-9)	23.00	Oct. 1, 1992
430-End	(869-017-00159-7)	31.00	Oct. 1, 1992
43 Parts:			
1-999	(869-017-00160-1)	22.00	Oct. 1, 1992
1000-3999	(869-017-00161-9)	30.00	Oct. 1, 1992
4000-End	(869-017-00162-7)	13.00	Oct. 1, 1992
44	(869-017-00163-5)	26.00	Oct. 1, 1992
45 Parts:			
1-199	(869-017-00164-3)	20.00	Oct. 1, 1992
200-499	(869-017-00165-1)	14.00	Oct. 1, 1992
500-1199	(869-017-00166-0)	30.00	Oct. 1, 1992
1200-End	(869-017-00167-8)	20.00	Oct. 1, 1992
46 Parts:			
1-40	(869-017-00168-6)	17.00	Oct. 1, 1992
41-69	(869-017-00169-4)	16.00	Oct. 1, 1992
70-89	(869-017-00170-8)	8.00	Oct. 1, 1992
90-139	(869-017-00171-6)	14.00	Oct. 1, 1992
140-155	(869-017-00172-4)	12.00	Oct. 1, 1992
156-165	(869-017-00173-2)	14.00	[8] Oct. 1, 1991
166-199	(869-017-00174-1)	17.00	Oct. 1, 1992
200-499	(869-017-00175-9)	22.00	Oct. 1, 1992
500-End	(869-017-00176-7)	14.00	Oct. 1, 1992
47 Parts:			
0-19	(869-017-00177-5)	22.00	Oct. 1, 1992
20-39	(869-017-00178-3)	22.00	Oct. 1, 1992
40-69	(869-017-00179-1)	12.00	Oct. 1, 1992
70-79	(869-017-00180-5)	21.00	Oct. 1, 1992
80-End	(869-017-00181-3)	24.00	Oct. 1, 1992
48 Chapters:			
1 (Parts 1-51)	(869-017-00182-1)	34.00	Oct. 1, 1992
1 (Parts 52-99)	(869-017-00183-0)	22.00	Oct. 1, 1992
2 (Parts 201-251)	(869-017-00184-8)	15.00	Oct. 1, 1992
2 (Parts 252-299)	(869-017-00185-6)	12.00	Oct. 1, 1992
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15-28	(869-017-00188-1)	26.00	Oct. 1, 1992
29-End	(869-017-00189-9)	16.00	Oct. 1, 1992
49 Parts:			
1-99	(869-017-00190-2)	22.00	Oct. 1, 1992
100-177	(869-017-00191-1)	27.00	Oct. 1, 1992
178-199	(869-017-00192-9)	19.00	Oct. 1, 1992
200-399	(869-017-00193-7)	27.00	Oct. 1, 1992
400-999	(869-017-00194-5)	31.00	Oct. 1, 1992
1000-1199	(869-017-00195-3)	19.00	Oct. 1, 1992
1200-End	(869-017-00196-1)	21.00	Oct. 1, 1992
50 Parts:			
1-199	(869-017-00197-0)	23.00	Oct. 1, 1992
200-599	(869-017-00198-8)	20.00	Oct. 1, 1992
600-End	(869-017-00199-6)	20.00	Oct. 1, 1992
CFR Index and Findings Aids	(869-019-00053-4)	36.00	Jan. 1, 1993
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1993. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 31, 1993. The CFR volume issued April 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1992. The CFR volume issued July 1, 1991, should be retained.

[8] No amendments to this volume were promulgated during the period October 1, 1991 to September 30, 1992. The CFR volume issued October 1, 1991, should be retained.